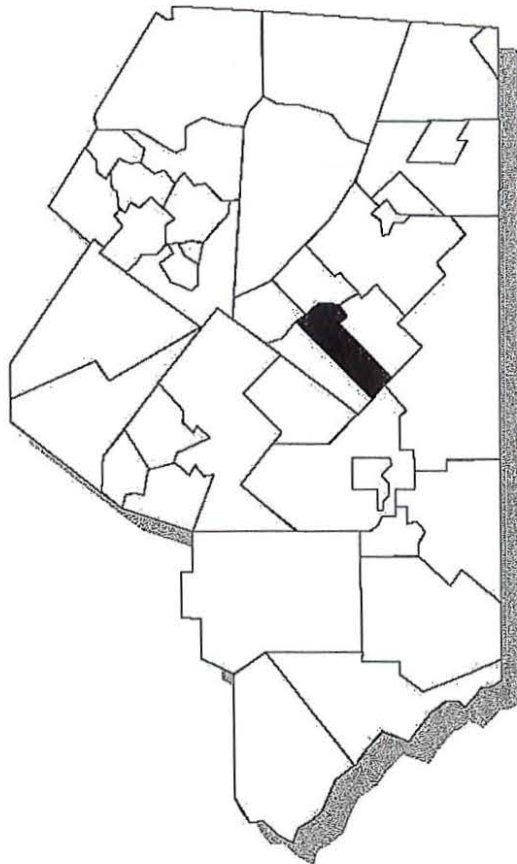


EXHIBIT A

OLYPHANT BOROUGH

LACKAWANNA COUNTY, PA

ZONING ORDINANCE



Olyphant Borough
113 Willow Avenue
Olyphant, PA 18447

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ARTICLE I

GENERAL PROVISIONS

101 TITLE

An Ordinance completely amending the Olyphant Borough Zoning Ordinance adopted April 19, 1989 and as amended thereafter.

This Ordinance divides the Borough of Olyphant into districts and regulates the use of land and the location, use and density of buildings within these districts; establishes a Zoning Hearing Board setting forth the duties and functions of said Board; regulates non-conforming uses and provides for the administration and enforcement of this Ordinance.

102 SHORT TITLE

This Ordinance shall be known and may be cited as the Olyphant Borough Zoning Ordinance.

103 APPLICATION OF ORDINANCE

No building, structure or land, located wholly or partially within the Borough of Olyphant shall be used or occupied and no building or part thereof shall be erected, moved, enlarged, or structurally altered unless in conformance with the regulations of this Ordinance.

104 PURPOSE

This Zoning Ordinance has been prepared in accordance with consideration for the character of the Borough, its various parts, and the suitability of the various parts for particular uses and structures, and is enacted for the following purposes:

- A. To promote, protect and facilitate one or more of the following: The public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, civil defense, disaster evacuation, the provision of adequate light and air, energy conservation, police protection, vehicle parking and loading space, transportation, water, sewage, schools, public grounds and other public requirements as well as,
- B. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.

105 INTERPRETATION

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of health, safety, morals, and the general welfare of the Borough and its citizens. It is not intended by this Ordinance to interfere with or abrogate or annul any rules or regulations previously adopted or permits previously issued by the Borough that are not in conflict with any provisions of this Ordinance, nor is it intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, building restrictions or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of the buildings or premises or upon the height of the building, or requires a larger open space than is imposed or required by such Ordinance, rules, regulations or permits, or by easements, covenants, building restrictions or agreements, the provisions of this Ordinance shall control.

106 EXEMPTIONS AND LIMITED PROVISIONS

A. Public Utilities

This Ordinance shall not apply to any existing or proposed building or extension thereof that is used or is to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission decides after a public hearing that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the Borough in which the building or proposed building is located have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.

B. State-Owned Property

State-owned property shall be subject to the provisions of this Ordinance only insofar as permitted by the Constitution and laws of the Commonwealth of Pennsylvania.

C. Federally-Owned Property

Federally-owned property shall be subject to the provisions of this Ordinance only insofar as permitted by the Constitution and laws of the United States Government.

107 SEVERABILITY

If any article, section, subsection, sentence, clause, or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Borough Council hereby declares that it would have passed this Ordinance and each section or part thereof irrespective of the fact that any one or more sections or parts thereof be declared invalid.

108 REPEALER

The Olyphant Borough Zoning Ordinance adopted April 19, 1989, and all amendments thereto, are hereby repealed. All other existing Ordinances or parts of Ordinances in conflict with this Ordinance, to the extent of such conflict and no further, are hereby repealed.

109 EFFECT OF ORDINANCE

Hereinafter, no building shall be erected, moved, altered, rebuilt or enlarged nor shall any land or building be designed or arranged to be used for any purpose or in any manner except in conformity with all regulations, requirements and controls specified in this Ordinance for the District in which such building or land is located.

110 EFFECTIVE DATE

This Ordinance shall become effective on the date of its adoption by the Borough Council.

111 ADOPTION

This Ordinance was duly adopted at a public meeting of the Olyphant Borough Council held on NOVEMBER 6, 2019, after a public hearing, properly advertised, held on NOVEMBER 6, 2019, by the Olyphant Borough Council.

Adopted this 6th day of NOVEMBER, 2019

James Balder
PRESIDENT, BOROUGH COUNCIL

Seamus Kelly
MEMBER

Michael Abda
MEMBER

Robert Sedlak
MEMBER

Daniel R. Kubert
MEMBER

ABSENT
MEMBER

ABSENT
MEMBER

ATTEST:

[Signature]
BOROUGH MANAGER

APPROVED THIS 6TH DAY OF NOVEMBER, 2019.

John Sedlak, Jr.
JOHN SEDLAK, JR. MAYOR
BOROUGH OF OLYPHANT

ARTICLE II

COMMUNITY DEVELOPMENT OBJECTIVES

201 COMMUNITY DEVELOPMENT OBJECTIVES

This Ordinance is adopted in general conformance with the elements of the Olyphant Borough Comprehensive Plan and is designed to accomplish the following objectives:

1. Create a pattern of land uses that is compatible and harmonious, where a suitable environment may be created for residential, commercial and industrial functions. The protection of present and future residential areas is a prime concern, as well as the reservation and protection of lands that are considered desirable and suitable for commercial and industrial uses, but not those industrial uses that will emit nuisances that would have an adverse effect on any part of the Borough.
2. Maintain a density of population that can feasibly be served by the streets and other public facilities that presently exist or can be reasonably provided by the Borough.
3. Direct the types of development and the intensity of development in such a manner as it will not place an unreasonable burden on the capacity of local streets and other public facilities.
4. Preserve the character, appearance, and integrity of the community in keeping with the present pattern and character of development and provide a variety of housing types and styles for all citizens.
5. Protect the flood plains by prohibiting the forms of development that would restrict the flow of the waterways and/or result in extensive loss of life or property.
6. Protect and encourage the conservation of natural resources.

ARTICLE III

DEFINITIONS

301 INTERPRETATION

For the purpose of this Ordinance certain words shall have the meaning assigned to them as follows:

Words used in the present tense include the future.

Words used in the singular include the plural; words used in the plural include the singular.

The word "shall" or "must" is always mandatory.

The masculine gender shall include the feminine and neuter.

The word "building" includes "structure" and any part thereof.

The word "lot" shall include "plot" or "parcel."

The phrase "used for" includes "arranged for," "designed for," "intended for," or "occupied for."

The word "person" includes an individual, corporation, partnership, incorporated association or any other similar entity.

The word "includes" or "including" shall not limit the term to the specified example, but is intended to extend its meaning to all other instances of like kind and character.

302 DEFINITIONS

The following words and phrases shall have the meaning given in this section, as follows:

ABANDONMENT: To stop the use of property intentionally. When the use of a property has ceased and the property has been vacant for 12 months, abandonment of use will be presumed unless the owner can show that a diligent effort has been made to sell, rent, or use the property for a legally permissible use.

ABUSED PERSON SHELTER: A non-profit, social-service use in which rooms are provided to serve as a temporary, safe and supportive, living environment for persons who, because of actual or threatened physical or mental abuse, are forced to leave their previous living arrangement. Such facilities shall be designed to provide in-house living for persons only until a safe, permanent living arrangement can be obtained.

ABUT: To physically touch or border upon or to share a common property line, also known as adjoining or contiguous with no intervening land. The term "abut" implies a closer proximity than the term "adjacent."

ACCESS DRIVE: A durable, all-weather surface, other than a street as defined in this Ordinance that provides access from a street to a lot or parcel of land.

ACCESSORY BUILDING OR STRUCTURE: A subordinate building on a lot, the use of which is incidental to that of the main or principal building and is not approved, established, or constructed before the principal use or structure is approved, established, or constructed.

ACCESSORY USE: A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building and is not approved, established, or constructed before the principal use or structure is approved, established, or constructed.

ADJACENT: Lying near or close to, neighboring; may be contiguous. "Adjacent" implies that two objects are not widely separated, though they may not actually touch.

ADULT DAY CARE CENTER: A use providing supervised care and assistance primarily to persons who are over age 16 and not in good physical health or suffering from a form of dementia or are developmentally handicapped and/or are physically handicapped and who need such daily assistance because of such condition. This use shall not include persons who need oversight because of behavior that is criminal or violent. This use may involve occasional overnight stays, but shall not primarily be a residential use. The use shall involve typical stays of less than a total of sixty (60) hours per week per person.

ADULT ARCADE: Any place where the public is permitted or invited where coin-operated or token-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas." An adult arcade shall be considered an Adult Business for the purpose of this Ordinance.

ADULT BOOKSTORE OR ADULT VIDEO STORE: A commercial establishment that, as significant stock and trade (see definition), offers for sale or rental for any form of consideration, any one or more of the following:

1. Books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, videocassettes, or video reproductions, slides or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas."
2. Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishment from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas."

The term Adult Bookstore shall include, but not be limited to, an Adult Video Store, and all such uses shall be considered an Adult Business for the purpose of this Ordinance.

ADULT BUSINESS: Any of the following:

1. A use of a building, or land for a business that has obscene materials as significant stock and trade (see definition).
2. A use of a building or land for a business that involves the sale, lease, trade, gift, or display of drug paraphernalia as significant stock and trade (see definition).
3. Any nightclub, bar, restaurant, arcade, theater, or any other establishment that conducts live performances as a principal part of its business that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or films, motion pictures, video cassettes, slides, or other photographic reproductions

where a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas," or where any "specified sexual activities" are conducted for economic gain or any other form of consideration.

4. Any of the following as defined in this §302, or any similar type of use:

- A. adult arcade
- B. adult bookstore or adult video store
- C. adult live entertainment use or facility
- D. adult motel
- E. adult motion picture theater
- F. adult theater
- G. escort agency
- H. massage parlor
- I. nude model studio
- J. sexual encounter center

ADULT LIVE ENTERTAINMENT USE OR FACILITY: A commercial use (including, but not limited to, a use selling food or beverages) including live entertainment involving any of the following:

- 1. Persons (that may include, but are not limited to, waiters, waitresses, dancers, clerks, bartenders, contractors, or others) appearing in a state of nudity.
- 2. Live performances that are characterized by the exposure of "specified anatomical areas" or simulated or actual "specified sexual activities."
- 3. Films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

An Adult Live Entertainment Use or Facility shall be considered an Adult Business for the purpose of this Ordinance.

ADULT MOTEL: A hotel, motel, or similar commercial establishment that:

- 1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction of "specified sexual activities" or "specified anatomical area;" and/or
- 2. Offers sleeping rooms for rent three (3) or more times in one calendar day.

An Adult Motel shall be considered an Adult Business for the purpose of this Ordinance.

ADULT MOTION PICTURE THEATER: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction of "specified sexual activities" or "specified anatomical area" are regularly shown. An Adult Motion Picture Theater shall be considered an Adult Business for the purpose of this Ordinance.

ADULT THEATER: A theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of nudity or live performances that are characterized by the exposure of "specified anatomical areas" or "specified sexual activities." An Adult Theater shall be considered an Adult Business for the purpose of this Ordinance.

AGENT OF OWNER: Any person who can show notarized written proof that he or she has authority to act for a property owner.

AGRICULTURAL BUILDING: An accessory structure on agricultural land, associated with an agricultural operation, designed, constructed, and used to house farm implements, livestock, or agricultural produce or products used by the owner or lessee or their immediate families, their employees, and persons engaged in the pick up or delivery of agricultural produce or products grown or raised on the premises. An agricultural building shall not include a dwelling.

AGRICULTURAL OPERATION AND PRODUCTS PROCESSING: An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock, and livestock products and in the production, harvesting, and preparation for market or use of agricultural, agronomic, horticultural, silvicultural, and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry.

AIR POLLUTION: The presence in the outdoor atmosphere of any form of contaminant in such place, manner, or concentration inimical of which may be inimical to the public health, safety, or welfare, or that is, or may be, injurious to human, plant, or animal life, or to property, or that unreasonably interferes with the comfortable enjoyment of life or property.

AIRPORT: An area of land designed and set aside for the take-off and landing of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

ALLEY: A public thoroughfare or right-of-way that affords only a secondary means of access to abutting property and not intended for general traffic circulation.

ALTERATIONS: As applied to a building or structure, means a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

ALTERATIONS, STRUCTURAL: Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.

AMENDMENT: A change to the zoning ordinance that includes revisions to the text and/or the official zoning map. The authority for any amendment lies solely with the Borough's Governing Body.

ANIMAL HOSPITAL OR VETERINARY CLINIC: A veterinary establishment for the care and treatment of small animals, including household pets. Boarding of animals shall only be permitted during their period of recovery. The operation of a crematorium in conjunction with the euthanasia of the animals shall be permitted.

APPLICANT: A person submitting an application for development or use of property, including his or her heirs, successors, and assigns.

APPURTENANCES: The visual, functional, or ornamental objects accessory to and part of buildings.

ARCHITECTURAL APPEARANCE, EXTERIOR: The architectural character and general composition of the exterior of a structure, including but not limited to the kind, color, and texture of the building material and the type, design, and character of all windows, doors, light fixtures, signs, and appurtenant elements.

ASSISTED-CARE APARTMENT UNIT: A secondary dwelling unit established for the care of an infirmed, aged, or ill relative, and in conjunction with and clearly subordinate to the primary, single-family detached dwelling unit, whether a part of the same structure as the primary dwelling unit or a detached dwelling unit on the same lot.

ASSISTED-LIVING FACILITY AND PERSONAL CARE HOME: A residential facility operated by a legal entity holding a certificate of compliance (license) issued by the Commonwealth permitting the operation of the personal-care home according to appropriate program licensure or approval regulations, in which food, shelter, and personal assistance or supervision are provided for a period of at least fourteen (14) days for four (4) or more aged adults who do not require hospitalization or skilled or intermediate nursing care, or the services in or of a Commonwealth-licensed long-term-care facility, but who do, because of their advanced age, require assistance or supervision in matters such as dressing, bathing, diet, financial management, evacuation of a residence in the event of an emergency, or medication prescribed for self-administration. Assisted-living facilities and personal-care homes shall not be considered abused person shelters, or drug or other treatment centers as defined by this Ordinance.

ATTIC: The part of a building that is immediately below, and wholly or partly within, the roof framing.

AUTO REPAIR (MAJOR AND MINOR) AND SERVICE STATION: Buildings and land areas where major activities are the mechanical repair of motor vehicles and their parts, the straightening and repair and replacement and painting of structural parts. The retail sale of gasoline, oil, grease, and other supplies and accessories may be conducted as accessory to the major activities. The heating or burning of rubber is specifically excluded from Auto Repair (Major and Minor) and Service Stations.

Minor Auto Repairs include the following:

1. Sales and servicing of spark plugs and batteries.
2. Tire repair and servicing, no recapping.
3. Replacement of mufflers and tail pipes, water hoses, fan belts, brake and transmission fluids, light bulbs, floor mats, seat covers (where this is not the principal use), windshield wipers, grease retainers, and wheel bearings.
4. Radiator cleaning and flushing.
5. Washing and polishing, not including mechanical and/or automatic car wash establishments.
6. Installation of fuel pumps and fuel lines.
7. Minor servicing and replacement of carburetors.
8. Adjustment and installation of brakes.
9. Tuning engines, except for grinding valves, cleaning carbon or removing the head of engines and/or crankcases.
10. Greasing and lubrication.
11. Emergency wiring repairs.
12. Any similar minor service or repair not listed below under Major Auto Repairs.

Major Auto Repairs the following:

1. All the repairs listed above under Minor Auto Repairs.
2. Any general repair, rebuilding, or reconditioning not listed above under Minor Auto Repairs.
3. Collision service including body, frame or fender straightening or repair.
4. Painting or paint shops.

BAKERY AND CONFECTIONERY PRODUCTS: A baking establishment that manufactures quantities of goods for retail sale on-site or off the premises.

BANK: A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities.

BANQUET FACILITY: An establishment that is rented by individuals or groups to accommodate private functions such as banquets, weddings, anniversaries and other similar celebrations. Such use may or may not include kitchen facilities for the preparation or catering of food; the sale of alcoholic beverages for on-premises consumption only during scheduled events not open to the public; and, outdoor gardens or reception facilities.

BASE STATION: A structure or equipment at fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not include a communications tower or any equipment associated with the tower.

BASEMENT: An enclosed floor area partly or wholly underground, other than a building that is completely underground. A basement shall be considered a "story" if:

1. the majority of the basement has a clearance from floor to ceiling of seven feet (7') or greater, and the roof of the basement is an average of four (4') or more feet above the finished grade of the front side of the building facing onto a street; OR
2. the basement forms the primary portion of a dwelling unit.

BAY: A compartment or space used for storage. In terms of garage or carport bays, the space used to store one (1) vehicle.

BED AND BREAKFAST INN: An owner-occupied, single-family dwelling, in which one (1) or more rooms are rented for lodging and serving of breakfast (but no other meals), designed primarily for casual and transient roomers, and where no restaurant is maintained and no cooking facilities are provided in any room.

BOARD: The Zoning Hearing Board of the Borough of Olyphant.

BOROUGH COUNCIL: The Council of the Borough of Olyphant; the Governing Body.

BOTTLE CLUB OR B.Y.O.B. CLUB: An establishment, whether open to the public or where entrance is limited by any fee, cover charge, membership, or other similar requirement, to which patrons bring with them alcoholic liquor, alcohol, malt, or brewed beverages to be consumed or stored for consumption on the business premises, and where such business or premises is not licensed to sell alcoholic liquor or beverages.

BOUTIQUE WINERY: An agricultural processing facility and/or business that produces 100 to 5,000 cases of wine per year that includes space allocated to bottling/crushing facilities, lab and office space, tasting room, and storage. A boutique winery shall provide at least two of the following four activities on site: crushing, fermentation, bulk aging/storing, and bottling.

BUFFER STRIP: A strip of land that shall be in addition to the minimum setback distance or a required yard but not within an existing or required future street right-of-way and that is maintained free of any principal or accessory building or structure, driveway, parking, outdoor storage or any other use than open space.

BUILDING: A structure formed of any combination of materials that is erected on the ground and permanently affixed thereto, and designed, intended, or arranged for the housing, shelter, enclosure or structural support of persons, animals, or property of any kind. Any structure such as, but not limited to, those having a roof supported by columns, piers, or walls, including tents, lunch wagons, mobile homes, trailers, dining cars, or other structures on wheels, or having other supports; and, any unroofed platform, terrace or porch having vertical face higher than three (3')

feet above the level of the ground over or upon which said structure is located. Private, accessory outdoor recreational equipment on residential lots shall not be considered a building.

BUILDING AREA: The total area taken on a horizontal plane of the ground floor plus any projections of the principal building and all accessory buildings, exclusive of uncovered porches, decks, terraces and steps.

BUILDING COVERAGE: The ratio obtained by dividing the ground floor area plus any projected area of all principal and accessory buildings on a lot (including covered porches, carports and breezeways, but excluding uncovered, open patios, porches and paved terraces) by the total area of the lot upon which the buildings are located.

BUILDING, DETACHED: A building surrounded by open spaces on the same lot.

BUILDING HEIGHT: The vertical distance of a building or structure measured from the average finished ground elevation along the entire perimeter of the building or structure, to the highest point of the roof for flat roofs, to the deck lines of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambol roofs.

BUILDING LINE: The line of a structure or building existing at the effective date of this ordinance or the legally established line that determines the location of a future building or structure or portion thereof with respect to any lot line or street right-of-way line.

BUILDING, PRINCIPAL: A building in which is conducted the principal use of the lot on which it is located.

BUILDING SETBACK LINE: The line within a lot or parcel defining the required minimum distances between any structure and the adjacent street right-of-way or boundary line of any lot. The setback shall be measured from the edge of any street right-of-way bordering or within the lot or parcel. Setback distances shall not be measured nor minimum required setback distance met within any existing width or proposed or required future width of any public or private street right-of-way.

BULK: The term used to describe the size of buildings or other structures and their relationship to one another to open areas such as yards, and to lot lines. The term includes:

1. The size, including height and floor area, of the building or other structure.
2. The relation of the number of dwelling units in a residential building to the area of the lot.
3. The relation of buildings and other structures to areas in open yards.

BULK FUEL STORAGE: Facilities for the storage of hazardous liquids or gases that require approval of applicable state or Federal agencies.

CAFÉ OR COFFEE HOUSE: An informal restaurant primarily offering coffee, tea, and other beverages, and where light refreshments and limited menu meals may also be sold.

CALIPER: The diameter of the main trunk of a tree. Caliper measurement shall be taken at a point on the trunk six inches (6") above the natural ground line for trees up to four inches (4") in caliper and at a point twelve inches (12") above the natural ground line for trees over four inches (4") in caliper.

CAMPGROUND: A planned development, under single ownership, for rental or lease only, of sites for use as tent and/or recreational vehicle camping, on a temporary basis only, including central

water supply and central sanitary sewage disposal with or without recreational and/or service facilities.

CAR WASH: Manual or mechanical facilities for the washing or waxing of private automobiles, light trucks and vans, but not commercial fleets, as the principal use of property.

CARPORT: An open space for the storage of one (1) or more vehicles in the same manner as a private garage, which may be covered by a roof supported by columns or posts except that one or more walls shall be the walls of the main building or an accessory structure to which the carport is an extension.

CASINO/GAMBLING ESTABLISHMENT: Establishments, except casino hotels, that operate gambling facilities, such as casinos, bingo halls, and video gaming terminals, or that provide gambling services, such as lotteries and off-track betting. This type of establishment shall not include the state lottery program or the Small Games of Chance provisions of state law.

CEMETERY: Land used for the burial of the dead, and dedicated for cemetery purposes, excluding columbariums, crematories, and mortuaries.

CERTIFICATE OF ZONING COMPLIANCE: The certificate, also referred to as an Occupancy Permit, issued by the Zoning Officer after he or she has inspected any structure, building, sign, land-use, and/or land for which a zoning permit was issued in order to determine compliance with the terms of the permit and the zoning ordinance before the structure, building, sign, land-use, and/or land or portion thereof can be lawfully used and/or occupied.

CHILD DAY CARE: A use involving the supervised care of children under age sixteen (16) outside of the children's own home primarily for periods of less than eighteen (18) hours during the average day. This use may also include educational programs that are supplementary to state-required education, including a nursery school or preschool. The following types of child day care are permitted without regulations by this Ordinance:

1. Care of children by their own relatives,
2. Care of children within a place of worship during regularly scheduled weekly religious services, and
3. Care of one (1) to six (6) children within any dwelling unit, in addition to children who are relatives of the care giver.

CLEAR SIGHT TRIANGLE: An area of unobstructed vision at a street intersection(s), defined by lines of sight between points at a given distance from the intersecting street right-of-way lines.

CLUSTER DEVELOPMENT: A residential cluster developed as a single entity according to a plan containing residential housing units in which the individual lots have a common or public open-space as an appurtenance. Such common or public open-space shall be assured of continued maintenance either through the dedication of such area to the Borough and the Borough's acceptance of it, or through the creation of a homeowners' association, or the developer's acceptance of the responsibility including legally binding agreements as may be required to achieve such assurances.

COLLEGE OR UNIVERSITY: An institution for post-secondary education, public or private, offering courses in general or religious education and not operated for profit. This use does not include trade or technical schools.

COLUMBARIUM: A structure or building substantially exposed above ground intended to be used for the interment of the cremated remains of a deceased person or animal.

COMMERCIAL OFFICES OR SERVICES: Commercial or professional establishments that provide for real estate sales, rentals or leasing; business, professional, and technical services; personal services; and pet and animal services, except animal hospitals or veterinary clinics.

COMMERCIAL VEHICLE: Any motor vehicle, trailer, or semi-trailer designed or used to carry freight, passengers for a fee, or merchandise in the furtherance of any commercial enterprise and having a gross weight of more than 8,500 pounds.

COMMISSION: The Planning Commission of the Borough of Olyphant.

COMPATIBILITY, COMPATIBLE: The consistency, or of a consistency, of characteristics of different uses, structures, activities, or design that allow them to be located near or adjacent to each other in harmony. Elements affecting compatibility include, but are not limited to, height, scale, mass and bulk of structures, building placement, orientation, siting, and exterior architectural appearance.

COMPREHENSIVE PLAN: A Comprehensive Plan (overall program) consists of maps, charts, textual matter, and indicates the recommendations of the planning commission for the continuing development of the Borough. The comprehensive plan includes but is not limited to, the following related basic elements: a statement of objectives; a plan for land use; a plan for the movement of people and goods; a plan for community facilities and utilities; and a map or statement indicated the relationship of the Borough and its proposed development to the adjacent municipalities and areas.

CONDITIONAL USE: A use allowed, with permission of the Borough Council, to occupy and use land and/or a building for specific purposes in accordance with this Ordinance.

CONDOMINIUM: A type of resident development in which:

1. the dwelling units are individually owned; and,
2. all or a portion of the exterior open space and any community interior spaces are owned and maintained in accordance with the Pennsylvania Unit Property Act of July 3, 1963, P.L. 196 and in accordance with the provisions for open space, roads, or other development features as specified in this Ordinance and the Borough's Subdivision and Land Development regulations.

CONSTRUCTION: Any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition for public rights-of-way, structures, utilities, or similar property.

CONTRACTOR'S OFFICE AND YARDS: Any land or buildings used primarily for the conducting of business and/or storage of equipment, vehicles, machinery (new or used), building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft.

CONVENIENT STORE: A one-story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It may also include the sale of gasoline but shall not include the repair or service of vehicles.

CORRECTIONAL FACILITY: A facility for the detention, confinement, treatment or rehabilitation of persons arrested or convicted for the violation of civil or criminal law. Such facilities include an adult detention center, juvenile delinquency center, jail, and prison. These facilities house prisoners who are in the custody of municipal or state law enforcement, and the facilities are typically government owned.

CREMATORIUM: A facility, not accessory to a funeral home or mortuary as defined by this Ordinance, containing properly installed, certified apparatus used exclusively for the disposal by incineration of the bodies of deceased humans or animals.

CULTURAL FACILITY: A library, gallery, museum, or similar use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

CURATIVE AMENDMENT: A proposed zoning amendment made to the Governing Body by any landowner who desires to challenge on substantive grounds the validity of an Ordinance that prohibits or restricts the use or development of land in which he has an interest.

DAM: Any man-made structure that is or may be used to impound water.

DATA COLLECTION UNIT (DCU): A cabinet-type facility that can be attached to an existing or proposed utility pole or a similar pole.

DECK: An accessory structure, without a roof and constructed of any material, attached to a principal building or freestanding that is supported by pillars or posts.

DEMOLITION: A dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

DENSITY: A measure of the number of dwelling units that occupy, or may occupy, an area of land.

DEVELOPER: Any landowner, agent of such landowner or tenant with permission from a landowner, who makes or causes to be made a subdivision of land or land development.

DISTRIBUTED ANTENNA SYSTEM (DAS): A set of antenna nodes networked with each other and connected to a wireless service source comprised of one or more high-power antennas that serve a given area and are replaced by a group of low-power antennas to serve the same geographic area. Also referred to as "micro cell."

DISTRIBUTION CENTER/WAREHOUSE: A facility for the receipt, transfer, short- or long-term storage, wholesale, packaging, assembly, and dispatching of manufactured products, supplies, and equipment, excluding explosive materials, typically transported by truck, van, and/or rail. Included in the use type would be express and other mail and package distribution facilities, including such facilities operated by the U.S. Postal Service.

DISTRICT OR ZONING DISTRICT: A portion or portions of the territory of the Borough within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

DORMITORY: Residential facilities that are only inhabited by teaching faculty and/or full-time students of an accredited college, university or medical training facility or state-licensed teaching hospital, or to an accredited public or private elementary or secondary school, and that are owned and operated by such principal use to which the dormitories serve.

DRIVEWAY: A privately owned and constructed vehicular access from an approved private or public road into a lot having frontage on said road.

DRUG PARAPHERNALIA: Any objects, devices, instruments, apparatus, or contrivances whose primary and traditionally exclusive use is involved with the illegal use of any or all controlled substances under Commonwealth law.

DRUG TREATMENT FACILITY: A facility operated for any or all of the following purposes (other than a permitted accessory use in a hospital): providing education, counseling therapy, treatment or rehabilitation for drug and/or alcohol addiction of adolescents or adults whether as inpatients or

outpatients. The term shall include a Methadone Treatment Facility as licensed by the PA Dept. of Health to use the drug methadone in the treatment, maintenance, or detoxification of persons.

DWELLING/DWELLING UNIT: A building or structure or portion thereof designed for occupancy by one family as a single housekeeping unit and containing complete sanitary and kitchen facilities. In no case shall a motor home, recreational vehicle, trailer coach, automobile chassis, tent, or portable building be considered a dwelling.

DWELLING TYPES:

1. **RESIDENTIAL CONVERSION UNIT:** A structure or building changed from a non-residential use, occupancy, or purpose into, or adapted to, a residential dwelling unit or units.
2. **SINGLE-FAMILY DWELLING:** A structure or building designed for and occupied exclusively by one family, detached from all other structures and surrounded by yards.
3. **TWO-UNIT ATTACHED DWELLING:** A building or structure containing two individual side-by-side dwelling units sharing one roof, but each unit having separate front and rear entrances.
4. **DUPLEX:** A building or structure containing two individual dwelling units that are divided horizontally with each unit having a separate entrance from the outside or through a common vestibule.
5. **MULTI-FAMILY DWELLING:** A building or structure containing three (3) or more dwellings. Multi-family dwelling structures shall include garden apartments.
6. **TOWNHOUSE:** A building or structure consisting of not less than three (3) or more than six (6) dwelling units each, with no other dwelling or portion of other dwelling directly above or below, each dwelling unit of which having direct ground level access to the outdoors and connected to the other dwelling units by a single party wall with no opening.
7. **GARDEN APARTMENT:** An apartment building located on a lot, either singly or together with other similar apartment buildings, having no more than eight (8) units per building and substantial landscaped open-space adjacent to the building(s).

EASEMENT: A right-of-way granted, but not dedicated, for limited use of private land for private, public, or quasi-public purposes.

ELIGIBLE FACILITIES REQUEST: Any request for modification of an existing communications tower or base station that does not substantially change the physical dimensions of such tower or base station, involving collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment.

ELIGIBLE SUPPORT STRUCTURE: Any communications tower or base station existing at the time a relevant application is filed.

ENERGY STORAGE FACILITY, LARGE SCALE: A facility used within an electrical power grid and as a method to collect and store electrical energy on a large scale. Electrical energy is stored at the facility when production from intermittent power facilities exceeds consumption and is returned to the grid when production falls below consumption.

ENVIRONMENTALLY SENSITIVE AREAS: Areas that have ecological importance, including but not limited to 100-year floodplains, slopes over twenty-five percent (25%), and wetlands.

ESCORT: A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY: A person or business association or establishment that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. An escort agency shall be considered an Adult Business for the purpose of this Ordinance.

ESSENTIAL SERVICES: Municipal or utility facilities that do not require enclosure in a building including the construction or maintenance of gas, electrical, steam, telephone, sewage collection systems, or water distribution; including equipment such as poles, towers, tanks, wires, mains, drains, sewers, pipes, conduits, cables, fire-alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment. Buildings, sewage treatment plants, solid waste disposal facilities, communications antennas and towers, utility company offices, storage of trucks or equipment and bulk storage, and any communication devices and/or facilities not specifically regulated by the PA Public Utility Commission shall not be considered essential services. An essential service requiring enclosure in a building shall be classified as a Semi-Public Building or Use.

FALL ZONE: A radial setback distance measured outward from the base of any Communications Towers, Wind Turbines, or similar support structures, a distance equal to one and one-half (1-1/2) times the Height (as defined by this Ordinance) of the structures (i.e. A tower with a height of 100' would require the establishment of a 150' fall zone.)

FAMILY: Any number of related or unrelated persons living together as a single housekeeping unit with common access to and use of all living and eating areas within the dwelling unit. A family shall also include unrelated persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit, if such occupants are handicapped, as defined under Group Home in this Ordinance. A family does not include a group living in a boarding house, hotel/motels, fraternities, sororities, dormitories, short-term rentals, or clubs; or other forms of congregate living arrangements, such as nursing homes, personal care homes or assisted living facilities.

FARM STAND: An accessory structure, temporary or permanent, used for the display and sale of unprocessed agricultural produce or products and home-processed food products, such as jams, jellies, baked goods, and home-made handicrafts. A farm stand also includes any cart, table, equipment or apparatus that is not a structure and intended so as to not be a permanent fixture on a lot used for the display and sale of unprocessed agricultural produce or products and home processed food products such as jams, jellies, baked goods, and home-made handicrafts.

FELLING: The act of cutting a standing tree so that it falls to the ground.

FENCE: A man-made barrier placed or arranged as a line of demarcation, an enclosure or a visual barrier and that is constructed of wood, chain-link metal, fiberglass, vinyl, aluminum and/or plastic inserts. Man-made barriers constructed principally of masonry, concrete, cinder block or similar mostly solid materials shall be considered a "wall." The term "wall" does not include engineering retaining walls, which are permitted as needed in all districts. The terms "fence" and "wall" do not include hedges, trees, or shrubs.

FLAG LOT: A lot so shaped and designed that the main building site area is directly to the rear of another lot, set back from the street on which it fronts and includes an access strip connecting the main building site with the frontage street.

FLEA MARKET: A building or open area in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old obsolete, or antique, and may include the selling of new or used goods at retail by businesses or individuals who are generally engaged in retail trade. Rummage sales and garage sales are not considered to be flea markets.

FLOODPLAIN: A relatively flat or low land area adjoining a river, stream, or watercourse that is subject to partial or complete inundation once in every one hundred (100) years, and designated by the Federal Emergency Management Agency as land within a 100-year flood boundary (Zone A).

FLOOR AREA OR GROSS FLOOR AREA: The total area of all floors as measured to the outside surfaces of exterior walls, or from the centerline of party walls separating two buildings, but excluding crawl spaces, garages, carports, attics without floors, open porches, balconies, and terraces.

FLOOR AREA RATIO: The total floor area allowable on a given lot divided by the area of that lot.

FOOTCANDLE: A unit of light intensity stated in lumens per square foot and measurable with an illuminance meter, also known as a footcandle or light meter.

FORESTRY: The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting, and selling trees for commercial purposes, which does not involve any land development.

FRATERNAL, CIVIC, OR SOCIAL CLUB: An establishment operated for social, community-oriented or educational purposes, open only to members and not usually open to the general public.

FRATERNITY OR SORORITY HOUSE: A type of boarding house used and occupied by a formal, legally incorporated cooperative organization (with each full member having a vote in the operations of the organization) of full-time college or university students. Such use may contain residential, social and eating facilities for members and their occasional guests.

FUNERAL HOME OR MORTUARY: A building used for the preparation of deceased humans for burial and display of deceased humans and rituals connected therewith before burial or cremation. A funeral home or mortuary, as defined for purposes of this Ordinance, may contain space and facilities for:

1. Embalming, cremation and the performance of other services used in preparation of the dead for burial;
2. Performance of autopsies and other surgical procedures;
3. Storage of caskets, funeral urns, and other related funeral supplies;
4. Storage of funeral vehicles.

GARAGE, PRIVATE: An enclosed or covered space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one (1) car is leased to a non-resident of the premises.

GARAGE OR YARD SALE: The accessory use of a residential lot for the occasional sale or auction of only used common household goods and furniture and items of a closely similar character that were used by the occupants of the residential lot.

GATE: A movable frame or solid structure that swings, slides, lifts, or rolls, controlling ingress and egress through an opening in a fence, wall, or vegetation.

GAZEBO: An accessory use consisting of a detached, covered, freestanding, open-air structure.

GENERAL NUISANCE: Any use considered to be inconsistent with the public comfort, convenience, health, safety, and general welfare. The following factors are included:

1. Fire and explosive hazards
2. Electrical and radioactive disturbances
3. Noise and vibration
4. Dust, dirt, fly ash
5. Glare
6. Smoke, odors
7. Other forms of noise and air pollution not listed above

GLARE: The sensation produced by lighting that causes an annoyance, discomfort, or loss in visual performance and visibility to the eye.

GOVERNING BODY: The Borough Council of the Borough of Olyphant.

GREENHOUSE, COMMERCIAL: A structure, typically constructed of metal or wood framework and covered with glass or plastic, used for the propagation of plants for wholesale distribution or retail sales. Commercial greenhouses may also include associated structures for office space and storage.

GREENHOUSE, PRIVATE: A detached accessory structure, typically constructed of metal or wood framework and covered with glass or plastic, for the propagation of plants for a private, residential or non-profit use.

GROUP HOME: A dwelling or use sponsored by a providing agency, regulated by the Commonwealth, and shared by two (2) or more handicapped persons, including resident staff, who live together as a single housekeeping unit and in a long-term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having: 1) a physical or mental impairment that substantially limits one or more of such person's major life activities; 2) a record of having such impairment; or 3) being regarded as having such impairment. However, such term shall not include current, illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term Group Home shall not include drug treatment centers, other types of treatment centers, or other housing facilities serving as an alternative to incarceration.

GROUP PICNIC AREA OR GROVE: An area or property consisting of two or more picnic tables to be reserved for use by ten (10) or more persons equipped with picnic tables, barbeque stands, and may also provide roofed shelters, restroom facilities, and/or outdoor recreational facilities.

GUEST HOUSE: An attached or detached accessory building used to house guests of the occupants of the principal dwelling, which is never rented or offered for rent, contains no kitchen facilities, and does not exceed five hundred (500) square feet in floor area.

HALFWAY HOUSE: A residential facility where persons are aided in readjusting to society following a period of imprisonment, hospitalization, or institutional treatment.

HAZARDOUS MATERIALS: Garbage, refuse or sludge from an industrial or other waste water treatment plant; sludge from a water supply treatment plant or air pollution control facility; and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining, or agricultural operations, and from community activities; or a combination of the above, which because of its quantity, concentration or physical, chemical or infectious characteristics may do one of the following:

1. Cause or significantly contribute to an increase in mortality or increase in morbidity in either an individual or the total population.

2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

The term does not include coal refuse as defined in the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51 - 30.101). The term does not include treatment sludge from coal mine drainage treatment plants, disposal of which is being carried on under and in compliance with a valid permit issued under The Clean Streams Law (35 P.S. §§ 691.1 - 691.1001). The term does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341) or source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954 (42 U.S.C.A. §§ 2011 - 2284).

HEARING: An administrative proceeding conducted by the Zoning Hearing Board or Borough Council pursuant to §1207 of this Ordinance and §909.1 of the Pennsylvania Municipalities Planning Code and as defined by §107 (b) of the Pennsylvania Municipalities Planning Code

HELIPAD: A facility, without the logistical support provided by a heliport, where helicopters take off and land primarily for sightseeing purposes. Helipads include launches and landings of hot air balloons but do not include facilities for maintenance, repair, fueling, or storage of helicopters or air hot balloons.

HELIPORT: An area, either at ground level or elevated on a structure, licensed and approved by the applicable state, local and federal agencies for the loading and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

HIGHWAY OCCUPANCY PERMIT: A permit, issued by the Pennsylvania Department of Transportation, that authorizes access from a parcel of land onto a street or highway that is under the jurisdiction of the Pennsylvania Department of Transportation.

HOME GARDENING: The cultivation of herbs, fruits, flowers or vegetables on a piece of ground adjoining a dwelling for private use or consumption.

HOME-BASED BUSINESS, MINIMAL IMPACT: A business or commercial activity administered or conducted as an accessory use that is clearly secondary to the use as a residential dwelling and that involves minimal customer, client, or patient traffic, whether vehicular or pedestrian, pickup, delivery, or removal functions to or from the premises and does not change the essential residential character or appearance of such structure.

HOME-BASED BUSINESS, NO IMPACT: A business or commercial activity administered or conducted as an accessory use that is clearly secondary to the use as a residential dwelling and that involves no customer, client, or patient traffic, whether vehicular or pedestrian, pickup, delivery, or removal functions to or from the premises, in excess of those normally associated with residential use.

HOME-SHARE: An activity where the resident(s) host visitors in their homes, for compensation, for periods of 30 consecutive days or less, while at least one of the dwelling unit's primary residents lives on-site, in the dwelling unit, throughout the visitors' stay.

HOSPITAL: An institution, licensed by the PA Department of Health, providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

HOSTING PLATFORM: A marketplace in whatever form or format that facilitates the Home-Sharing, through advertising, match-making, or any other means, using any medium of facilitation,

and from which the operator of the hosting platform derives revenues, including booking fees or advertising revenues, from providing or maintaining the marketplace.

HOT TUB: An artificial container of water with a liquid capacity greater than one hundred (100) gallons and designed with a mechanical air injection system and/or recirculation device. These devices may filter and/or disinfect the water for reuse and are not intended to be drained between uses.

HOTEL OR MOTEL: A building or buildings containing rooms rented out to persons as clearly transient and temporary living quarters. Any such use that customarily involves the housing of persons for periods of time longer than thirty (30) days shall be considered a "boarding house" and shall meet the requirements of that use. A hotel or motel may include a restaurant, banquet rooms, conference rooms, nightclub, newsstand or tavern, provided that such uses are clearly accessory to the principal use of overnight accommodations.

HOUSEHOLD PET: Animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include but not be limited to domestic dogs and cats, tropical birds, parrots, parakeets, canaries, hamsters, rabbits, ferrets, or fish.

HYDRAULIC FRACTURING WATER WITHDRAWAL FACILITY: A facility immediately adjacent to a water body or watercourse that typically contains a submerged suction line, pumps, water main, multiple hydrants, truck loading and staging area, and water storage tanks, which store water on a temporary basis that is intended to be transported by vehicle to a natural gas well site for the purpose of hydraulic fracturing.

ILLUMINANCE: The quantity of light measured in footcandles or lux.

IMPERVIOUS SURFACE: Any non-vertical, hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, and areas of asphalt, concrete, brick, paved block, and/or compacted gravel.

INDOOR RECREATION, COMMERCIAL: A commercial recreational land use conducted entirely within a building, including but not limited to arcade, athletic and health clubs, bowling alley, gymnasium, pool or billiard hall, skating rink, swimming pool, and tennis and other similar courts.

INDOOR RECREATION, PRIVATE: An accessory use conducted entirely within a building used for the sole recreational enjoyment of the residences of the premises and their guests, where no fees are charged for usage or personal instruction, and not exceeding three thousand (3000) square feet in floor area. This type of use includes a bowling alley, gymnasium, pool or billiard hall, skating rink, swimming pool, and tennis and other courts.

INDUSTRIAL PARK: A tract of land laid out in accordance with an overall plan for a group of industries with separate building sites designed and arranged on streets with utility service, setbacks, landscaped yards, and covenants controlling the architecture and uses.

INDUSTRY, HEAVY: A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing process that potentially involve hazardous or commonly recognized offensive conditions. Such uses include the processing of food, textiles and related products; wood, paper and printing products; and chemicals, metals, machinery and electronics.

INDUSTRY, LIGHT: A use engaged in the manufacturing, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

JUNK: Any scrap, waste, refuse, reclaimable material or debris, vehicles, appliances, equipment or machinery, or parts thereof, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk shall include, but shall not be limited to:

1. Scrap iron, tin, brass, copper, lead, zinc and all other metals and alloys; bones, rags, paper, used cloth, used rubber, used rope, and similar materials; old or used, or parts of machinery, vehicles, tools, appliances, furniture, plumbing, heating and other fixtures, and pipe and pipe fittings.
2. Used lumber, boxes, crates and pallets.
3. Used tires.
4. Other worn, deteriorated, or obsolete manufactured goods which are unusable.
5. Mobile/manufactured homes that are not in habitable condition.
6. Abandoned or junked vehicles.

Junk shall not include the following:

7. Any solid or liquid waste the disposal of which is regulated by the Pennsylvania Department of Environmental Protection.
8. Agricultural vehicles and implements such as tractors, mowers, etc., for use as parts for equipment, and machinery used as part of an active, on-going agricultural operation provided such equipment is stored on the premises of the operation and can be legitimately used for parts.
9. Construction and contractors' equipment for use as parts for equipment, and machinery used as part of an active, on-going contracting business legally operating in accord with this Ordinance provided such equipment is stored on the premises of the operation, can be legitimately used for parts, and is adequately screened.

JUNK YARD: An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of junk as defined by this Ordinance, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The following shall also be considered junkyards:

1. The outside storage or deposit on a lot of more than two (2) abandoned or junked vehicles; and,
2. The outside storage or deposit on a lot of one (1) or more mobile/manufactured homes, or any parts/sections thereof, that are not in habitable condition.

Vehicle sales lots managed by licensed vehicle dealers operated in accordance with this Ordinance and storage areas for antique and collector vehicles with adequate screening approved by the Borough shall not be considered junkyards.

KENNEL: Any commercial establishment where dogs, cats, and other animals are kept for the purpose of breeding, hunting, training, renting, research or vivisection, buying, boarding, sale, show, or any other similar purpose and is so constructed that animals cannot stray there from. A non-profit animal shelter shall be considered a type of kennel.

KITCHEN FACILITIES: A complete kitchen shall include all of the following: a sink with piped water, and provision of space and connections for a cook stove and refrigerator.

LAND DEVELOPMENT: Any of the following activities:

1. The improvements of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - A. A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure or;
 - B. The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
2. A subdivision of land.
3. The following shall be excluded from the definition of Land Development:
 - A. The conversion of an existing single-family detached dwelling or single-family semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium;
 - B. The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building.

LANDING: A place where logs, pulpwood, or firewood are assembled for transportation to processing facilities.

LARGE-SCALE RESIDENTIAL DEVELOPMENT: A residential development planned for a site of not less than ten (10) acres. See Planned Residential Development.

LIGHT TRESPASS: Light emitted by a lighting installation that extends beyond the boundaries of the property on which the installation is sited.

LITTER: Discarded items not naturally occurring on a site, such as tires, oilcans, equipment parts, and other rubbish.

LIVESTOCK: Animals raised or kept for home consumption, profit or enjoyment, including but not limited to, cattle, sheep, hogs, goats, bison, llamas, alpacas, ostriches, peacocks, emus, other exotic outdoor birds, and poultry.

LOADING BERTH: An off-street space or berth used for the loading or unloading of cargo, products, or materials from vehicles.

LOP: To cut tops and slash into smaller pieces to allow material to settle close to the ground.

LOT: A designated parcel, tract or area of land established by a plot or otherwise as permitted by law and to be used, developed or built upon as a unit, and having frontage on a public road right-of-way.

1. Lot, Corner - A lot situated at and abutting the intersection of two (2) streets having an interior angle of intersection not greater than one hundred thirty-five (135) degrees.

2. Lot, Depth - The average horizontal distance between the front and the rear lot lines.
3. Lot Lines - The property lines bounding the lot.
 - A. Lot Line, Front - The lines separating the lot from an abutting, existing or proposed street right-of-way. In the case of a lot that does not have direct frontage on an existing street right-of-way that lot line nearest the street right-of-way line shall be considered the front lot line. In case of a corner lot, both street frontages are considered to be front lot lines and the remaining lines are side lines.
 - B. Lot Line, Rear - The lot line opposite and most distant from the front lot line.
 - C. Lot Line, Side - Any lot line other than a front or rear lot line.
 - D. Lot Line, Street or Alley - A lot line separating the lot from a street or alley.
4. Lot Width - The horizontal distance between the side lot lines measured:
 - A. In the case of lots fronting on a cul-de-sac, along a chord perpendicular to a radial line located equi-distant between the side lot lines, the said chord shall intersect the radial line at a point located a distance from the right-of-way line equal to the prescribed minimum front yard setback as set forth in this ordinance.
 - B. In the case of all other lots along a line parallel to and at a distance equal to the prescribed minimum front yard setback as set forth in this ordinance.
5. Lot Area, Gross - the computed area contained within the lot lines.
6. Lot Area, Net - the computed area contained within the lot lines minus any areas within existing or proposed public or private road rights-of-way.

LOT COVERAGE, MAXIMUM: The maximum ratio obtained by dividing the roof areas of all principal and accessory buildings plus areas of other impervious surfaces as defined by this Ordinance used for streets, driveways, parking areas, and tennis and other recreational courts (sidewalks, patios, uncovered porches, decks, and play apparatus areas are excluded) on a parcel or lot by the total net area of the parcel or lot upon which located.

LUMBERYARD: An area or facility used for the storage, distribution, and sale of finished or rough-cut lumber and lumber products, but not including the manufacture or fabrication of lumber, lumber products, or firewood.

LUMINANCE: The physical and measurable quantity corresponding to the brightness of a surface (i.e. a lamp, luminaire, reflecting material) in a specific area, and measurable with a luminance meter.

LUX: A unit of light intensity stated in lumens per square meter. There are approximately 10.7 lux per footcandle.

MACHINE SHOP: Shops where lathes, presses, grinders, shapers, and other wood- and metal-working machines are used such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing, heating, and electrical repair shops; and overhaul shops.

MANUFACTURED HOME: A transportable, single-family dwelling intended for permanent occupancy, office or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental

unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation, including but not limited to, mobile and modular homes.

MESSAGE: The performance of manipulative exercises using the hands and/or a mechanical or bathing device on a person(s)'s skin other than the face or neck by another person(s) that is related to a certain monetary compensation, and that does not involve persons who are related to each other by blood, adoption, marriage, or official guardianship.

MESSAGE PARLOR: An establishment that meets all of the following criteria:

1. "Messages" are conducted.
2. The person conducting the massage is not a state-licensed health-care professional or a state-licensed massage therapist.
3. The massages are not conducted within a licensed hospital, nursing home, personal-care center or office of a medical doctor or chiropractor.
4. The massages are conducted within private or semi-private rooms.
5. The use is not clearly a customary and incidental accessory use to a permitted exercise club or high school or college athletic program.

A Massage Parlor shall be considered an Adult Business for the purpose of this Ordinance.

MAUSOLEUM: A building containing above-ground tombs.

MEDICAL CLINIC: A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis, including emergency treatment, diagnostic services, training, and administration.

MEDICAL MARIJUANA FACILITY: A facility or use of land established pursuant to the Medical Marijuana Act (PA Act 16 of 2016) including Academic Clinical Research Centers, Medical Marijuana Growers/Processors, Transport Vehicle Offices and Dispensaries. (See Article IX-B for additional definitions.)

MINERAL OR NATURAL RESOURCE EXTRACTION: The removal from the surface or beneath the surface of the land of bulk mineral resources using significant machinery. Mineral extraction includes but is not limited to the extraction of sand, gravel, topsoil, limestone, clay, coal, shale, or iron ore. The routine movement of and replacement of topsoil during construction shall not be considered mineral extraction.

MINERALS: Any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat, and oil and gas.

MOBILE HOME: A transportable, single-family, manufactured home or dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

MOBILE HOME LOT: A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobile home.

MOBILE HOME PARK: A parcel or contiguous parcels of land that has been so designated and improved that it contains two (2) or more mobile home lots for the placement thereon of mobile homes.

MODULAR HOME: A single-family, manufactured home or dwelling constructed in accordance with State standards and comprised of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Unlike a mobile home, a modular home is not manufactured with a permanent hitch or other device to allow re-transport of the unit and does not have wheels or axles permanently attached to its body or frame.

NIGHTCLUB: A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing and musical entertainment are permitted.

NONCONFORMING LOT: A lot, the area or dimension of which was lawful prior to the adoption or amendment of a Zoning Ordinance, but that fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

NONCONFORMING STRUCTURE: A structure or part of a structure not designed to comply with the applicable use provisions in this Ordinance or amendments heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or amendment or prior to the application of this Ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

NONCONFORMING USE: A use, whether of land or of a structure, that does not comply with the applicable use provisions in this Ordinance or amendments heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or amendment to its location by reason of annexation.

NUDE MODEL STUDIO: Any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. A Nude Model Studio shall be considered an Adult Business for the purposes of the Ordinance.

NUDITY OR A STATE OF NUDITY: The appearance of a human bare buttock, anus, male genitals, female genitals, or full female breasts.

NURSERY: A commercial operation that conducts the retail and/or wholesale sale of plants, trees, or shrubs grown on the site, as well as accessory items such as pots, potting soils, fertilizers, etc., directly related to their care and maintenance.

NURSERY SCHOOL OR PRESCHOOL: A facility for the organized instruction of children who have not reached the age for enrollment in kindergarten.

NURSING HOME: A facility established for profit or nonprofit and is licensed by the Commonwealth, which provides nursing care and related medical services on a 24-hour per day basis to two or more individuals because of illness, disease, or physical or mental infirmity, but excludes a facility providing surgical or emergency medical services and excludes a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease.

OBSCENE MATERIALS: Any literature, book, magazine, pamphlet, newspaper, paper, comic book, drawing, photograph, figure, image, motion picture, sound recording, article, instrument, or any other written or recorded matter that depicts or describes any "specified anatomical areas" and/or "specified sexual activities."

OFF-SITE ADVERTISING SIGN OR BILLBOARD: A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where the sign is located, or to which it is affixed.

OIL AND GAS: Crude oil, natural gas, methane gas, coal bed methane gas, propane, butane and/or any other constituents or similar substances that are produced by drilling an oil or gas well. (See Article IX-A for additional definitions.)

OPEN SPACE, COMMON: A parcel or parcels of land or an area of water, or a combination of land and water, within a development site, designed and intended for the use and enjoyment of residents of the development, not including streets, off-street parking areas, and areas set aside for public or community facilities.

OPEN SPACE, PUBLIC: Common open space owned by a government agency or the Borough for public recreation.

OPEN SPACE RATIO: A measure of the intensity of land use, determined by dividing the total of all open space areas contained within a site by the gross site area.

OPERATOR, FORESTLAND: An individual, partnership, company firm, association, or corporation engaged in timber harvesting, including the agents, subcontractors, and employees thereof.

OUTDOOR EXHIBITIONS, SPORTS ASSEMBLY, ENTERTAINMENT, AND AMUSEMENTS: Publicly or privately operated facilities such as stadiums, racetracks, arenas, field houses, cart tracks, miniature golf courses, amusement parks, zoos, and similar sports, exhibitions, and amusement uses.

OUTDOOR FURNACE: Any device, contrivance or apparatus or any part thereof, including but not limited to a boiler, fire box, exchanger, grate, fuel gun, fuel nozzle, chimney smoke pipe, exhaust conduit and like devices, that is installed, affixed or situated outdoors for the primary purpose of the combustion of fuel from which heat or energy is derived and intended to be directed there from by conduit or other mechanism into any interior space for the supply of heat or energy. An Outdoor Furnace may also be referred to as an Outdoor Wood Boiler or Outdoor Wood-Fired Hydronic Heater. This definition does not include a fire pit, wood-fired barbecue, chimera, outdoor fireplace or maple sugar rendering apparatus.

OUTDOOR RECREATION AND SPORTS: Commercial or membership-only sports or recreational uses conducted outdoors such as tennis, golf, boating, canoeing, hunting, fishing, skiing, outdoor shooting range, golf driving range, archery, and similar participation activities.

OWNER: The person who holds the fee simple title to a property, and the person or persons who have acquired any interest in the property by contract or purchase or otherwise.

OWNER, FORESTLAND: An individual, partnership, company, firm, association, or corporation that is in actual control of forest land, whether such control is based on legal or equitable title, or any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any matter, and any agents thereof acting on there behalf, such as forestry consultants, who set up and administer timber harvesting.

PA DEP: The Pennsylvania Department of Environmental Protection.

PARKING FACILITIES: Parking facilities shall consist of areas used for the storage of vehicles or of specially designed buildings or garages used for the same purposes. Private parking facilities shall be restricted to use by persons resident on the premises or residing in the immediate vicinity of such facility or by their guests. Public parking facilities shall be open to the public as an accommodation for customers, clients or visitors.

PATIO: An area designed for outdoor living purposes as an accessory use to a structure, which shall be completely unenclosed except for any side that may adjoin a structure or for any fences, shrubs or hedges. Outdoor areas enclosed by a permanent roof shall be considered to be a structure.

PENNDOT: The Pennsylvania Department of Transportation.

PERMANENT FOUNDATION: A cement, concrete, treated wood, or cinder block walled foundation erected on a poured concrete footer. A solid concrete slab will also be considered a permanent foundation. The construction of permanent foundations shall be done in accordance with the Uniform Construction Code as amended.

PERMIT: A document issued by Olyphant Borough authorizing an applicant to undertake certain activities.

1. Building Permit - A permit indicating that a proposed construction, alteration, or reconstruction of a structure is in accordance with the construction provisions of any Building Permit Ordinance or Construction Code that may be adopted by the Borough and authorizing an applicant to commence with said construction, alteration or reconstruction. Such a permit shall not be confused with a zoning permit or with an occupancy permit as required under the terms of this Ordinance.
2. Zoning Permit - A permit issued indicating that a proposed use, building or structure is in accordance with the provisions of this Ordinance and authorizing an applicant to proceed with said use, building or structure.
3. Occupancy Permit - A permit issued upon completion of the construction of a structure, or change in use of structure or parcel of land indicating that the premises comply with the provisions of this Ordinance and any Building Permit Ordinance or Construction Code that may be adopted by the Borough and may be used for the purposes set forth in the Occupancy Permit. See also, Certificate of Zoning Compliance.

PERMITTED USE: Any use that does not require special action by the Governing Body, Zoning Hearing Board, or Planning Commission before a building and/or zoning permit is granted by the Zoning Officer. A use permitted by right in a designated zoning district(s).

PERSONAL SERVICES: Places primarily providing services oriented to personal needs that do not involve retail sales or professional advisory services. Personal services include barber and beauty shops, shoe repair shops, household appliance repair shops, and other similar establishments.

PERVIOUS CONCRETE OR ASPHALT PAVEMENT: A cast-in-place, Portland cement-based concrete or asphalt pavement surface designed to permit the percolation of a percentage of water through its surface.

PERVIOUS SURFACE: Any area maintained in its natural condition, or covered by a material that permits infiltration or percolation of water into the ground, including but not limited to vegetation, mulch, non-compacted gravel, and slatted wood.

PLANNED RESIDENTIAL DEVELOPMENT: An area of land controlled by a landowner to be developed as a single entity for a number of dwelling units, or combination of residential and non-residential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling or use, density, lot coverage and required open space, to the regulations established in the zone districts as created by this Ordinance, and any subsequent amendments thereto.

PLANNING COMMISSION: The Planning Commission of the Borough of Olyphant.

PLAT: A map, plan, or layout of a subdivision indicating the location and boundaries of individual properties.

POOL HOUSE: A detached accessory building used for recreational purposes and/or storage in association with a private swimming pool and does not exceed five hundred (500) square feet in floor area.

PORCH: A roofed or unroofed structure projecting from the front, side, or rear wall of a building that shall have no wall more than thirty inches (30") high and that shall be open on all sides except the side adjoining the building.

PORTABLE ON-DEMAND STORAGE CONTAINER (POD): Any container, storage unit, shed-like container or other portable structure specifically made or crafted for the purpose of temporary storage that can or is used for the storage of personal property of any kind excluding hazardous materials or wastes as defined in this Section 302 and is located outside an enclosed principal structure.

POULTRY: Domesticated birds used for eggs or meat such as chickens, turkeys, ducks, or geese.

POWER FACILITY: Any plant facility and equipment, excluding Solar and Wind Energy Facilities as defined by this Ordinance, for the purposes of producing, generating, transmitting, delivering, or furnishing electricity for the production of power.

PRE-COMMERCIAL TIMBER STAND IMPROVEMENT: A forest practice, such as thinning or pruning, that results in better growth, structure, species composition, or health for the residual stand but that does not yield a net income to the land owner, usually because any trees cut are of poor quality, too small, or otherwise of limited marketability or value.

PREMISES: Any lot, parcel or tract of land and any building constructed thereon.

PROFESSION: Includes any occupation or vocation in which a professed knowledge of some department of science or learning is used by its practical application to the affairs of others, either advising, guiding, or teaching them and in serving their interest or welfare in the practice of an art founded on it. The work implies attainments in professional knowledge as distinguished from mere skill and the application of such knowledge to uses for others as a vocation. It requires knowledge of an advanced type in a given field of science or instruction and study.

PROFESSIONAL OFFICE: Professional offices shall include the office of a physician, dentist, optometrist, minister, architect, landscape architect, community planner, engineer, insurance agent, realtor, accountant, lawyer, chiropractor and similar practitioners licensed by the Commonwealth of Pennsylvania and/or the United States Government.

PROPERTY LINE: A recorded boundary of a lot. However, any property line that abuts a "street" or other public or quasi-public way shall be measured from the full right-of-way.

PUBLIC BUILDING OR USE: Any structure, building, or use owned and operated by a government body or agency including such uses as public elementary and secondary schools, municipal buildings, police stations, post offices, tourism promotion and welcome centers, but excluding solid-waste disposal facilities, recycling centers, parks, correctional facilities, nursing homes, hospitals, and other public service uses specifically defined by this Ordinance.

PUBLIC HEARING: A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with this Ordinance and the Pennsylvania Municipalities Planning Code.

PUBLIC MEETING: A forum held pursuant to the notice under the act of July 3, 1986 (PL 388, No. 84), known as the Sunshine Act.

PUBLIC NOTICE: Notice published once each week for two consecutive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and

the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

PUBLIC PARK: A natural or landscaped area, buildings or structures, provided by a unit of government, to meet the active or passive recreational needs of people. Playgrounds shall be considered public parks that provide recreational needs primarily to children.

PUBLIC UTILITY TRANSMISSION TOWER: A structure, owned and operated by a public utility electric company regulated by the Pa. Public Utility Commission, designed and used to support overhead electricity transmission lines.

RECREATIONAL VEHICLE: A vehicle that is designed primarily to transport a person for primarily recreational instead of transportation purposes, or a vehicle that serves as a mobile, temporary dwelling. This may include a vehicle that is self-propelled, towed, or carried by another vehicle, but shall not include camper cabs that fit over pickup trucks. This term shall also include the following: watercraft other than canoes with a hull longer than 12 feet, motor homes, travel trailers, all-terrain vehicles, and snowmobiles.

RECYCLING FACILITY: An establishment for the drop-off, processing, separation and/or collection of recyclable materials from solid wastes.

RELATED OR RELATIVE: Persons who are related by blood, marriage, adoption, or formal foster relationship to result in one of the following relationships: brother, sister, parent, child, grandparent, great-grandparent, grandchild, great-grandchild, uncle, aunt, nephew, niece, sister-in-law, brother-in-law, father-in-law, mother-in-law, or first cousin. This shall not include relationships such as second, third, or fourth cousins.

RELIGIOUS INSTITUTION: A church or place of worship or religious assembly with related facilities such as the following in any combination: rectory or convent, meeting hall, offices for administration of the institution, banquet facility for use by congregation members only, licensed child or adult daycare, and playground.

RESEARCH LABORATORY: A use engaged in research and development, testing, assembly, repair, and manufacturing in the following industries: biotechnology, pharmaceuticals, medical instrumentation or supplies, communications and information technology, electronics and instrumentation, and computer hardware and software. Office, warehousing, wholesaling, and distribution of the finished products produced at the site are allowed as part of this use.

RESORT OR CONFERENCE CENTER: A building(s) located on a lot combining lodging of members and guests, service of food, retail sales of commodities and services, facilities for educational activities and/or business meetings, and recreation.

RESTAURANT: An establishment in which the principal use is the preparation and sale of food and beverages, whether the food and beverages are consumed on-site or not.

RETAIL BUSINESS: An establishment offering the sale or rental, with incidental service, of commonly used goods and merchandise for personal or household use, but excludes those retail businesses classified more specifically by definition in this Ordinance.

RETAINING WALL: Any fence or wall built or designed to retain or restrain lateral forces or soil or other materials, said materials being similar to the height of the wall on one side.

RETIREMENT HOUSING: A residential complex containing multifamily dwellings designed for and principally occupied by senior citizens (age 55+). Such facilities may include a congregate meals program in a common dining area, but exclude institutional care such as medical or nursing care.

ROOMING AND BOARDING HOUSE: A residence or building other than a motel or hotel where, for compensation and by prearrangement for definite periods of thirty (30) days or more, lodging and meals are provided for two (2) or more persons. A college fraternity or sorority house used as a residence shall be considered a type of boarding house, but a boarding house shall not include a use that meets the definition of the following: drug or other treatment center, abused person shelter, hotel, dormitory, motel, personal care facility, bed and breakfast inn, group home or nursing home.

SANITARY LANDFILL: A lot or land or part thereof used primarily for the disposal of garbage, refuse, and other discarded materials including, but not limited to, solid and liquid waste materials resulting from industrial, commercial, agricultural, and residential activities. The operation of a sanitary landfill normally consists of: 1) depositing the discarded material in a planned controlled manner, 2) compacting the discarded material in thin layers to reduce its volume, 3) covering the discarded materials with a layer of earth, and 4) compacting the earth cover.

SATELLITE DISH ANTENNA: A parabolic dish antenna including its structural supports, used for reception of various satellite television programming signals.

SAWMILL: A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

SCREEN PLANTING: A method of visually shielding or obscuring one abutting or nearby structure or use from another by densely planted vegetation.

SELF-STORAGE FACILITY: A building(s) containing separated spaces to be leased or rented to individuals and/or businesses for the storage of personal belongings, goods, or supplies.

SEMI-PUBLIC BUILDING OR USE: Buildings or uses operated by nonprofit, community-based organizations including fire and ambulance stations, private elementary and secondary schools, and essential services that require enclosure within a structure or building.

SEXUAL ENCOUNTER CENTER: A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex.
2. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

A Sexual Encounter Center shall be considered an Adult Business for the purpose of this Ordinance.

SEWAGE DISPOSAL SYSTEM, CENTRALIZED: A publicly or privately owned and operated utility system or other system designed to collect, centrally treat and dispose of sewage from users in compliance with regulations of the appropriate state agency and of the Borough.

SEWAGE DISPOSAL SYSTEM, COMMUNITY: A publicly owned and operated utility system or other system designed for the collection of sewage from two or more lots and for the treatment or disposal of the sewage on one or more of the lots or at any other site, by on-site (into the soil) disposal techniques in compliance with regulations of the appropriate agency and of the Borough.

SEWAGE DISPOSAL SYSTEM, INDIVIDUAL: A utility system or other system designed for the collection, treatment and disposal of from a single lot into the soil or into waters of the Commonwealth, or for conveyance to another site for final disposal.

SHED: An accessory structure used primarily for storage purposes, of a wall height no greater than eight feet (8') and that does not exceed one hundred fifty (150) square feet in floor area.

SHOPPING CENTER, MALL OR PLAZA: A group of six (6) or more retail and other commercial establishments that is planned, owned, and managed as a single-property with on-site parking. The two main configurations of a shopping center are malls and open-air strip plazas.

SIGN: Any device visible from a public place whose essential purpose and design is to convey either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Noncommercial flags or any other flags displayed from flagpoles or staffs will not be considered to be signs. (See Article IX for additional definitions.)

SIGNIFICANT STOCK AND TRADE: Twenty-five percent (25%) or greater of the floor area, gross sales, or dollar value of inventory of any commercial establishment.

SITE ALTERATION: Site alterations shall include re-grading the existing topography, filling lakes, ponds, marshes or flood plains, removing ground cover or altering water courses.

SKIDDING: Dragging trees on the ground from the stump to a landing by any means.

SLASH: Woody debris left in the woods after logging, including logs, chunks, bark, branches, uprooted stumps, and broken or uprooted trees or shrubs.

SLAUGHTERHOUSE: A facility for the for-profit slaughtering and processing of animals and the refining of their byproducts.

SOCIAL SERVICE AGENCY: A facility, other than an office, providing a social service directly to the local community, including but limited to food banks, blood banks, life-skills training, job training, hotline centers, veterans affairs, emergency shelters, elderly or disabled services, and crisis centers. This type of use does not include drug treatment centers or other types of treatment centers as defined by this Ordinance.

SOLAR COLLECTOR: A device or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes significantly to a structure's energy supply.

SOLID WASTE OR WASTE: Any garbage, refuse, industrial, lunchroom or office waste or other material including solid, liquid, semi-solid or contained gaseous material, resulting from the operation of residential, municipal, commercial, or institutional establishments and from community activities. The term shall also include any garbage, refuse, other discarded material or other waste, including solid, liquid, semi-solid or containing gaseous materials resulting from industrial, mining, agricultural operations. Local facilities or any other by-product or effluent from an industrial, mining or agricultural water supply treatment facility, waste water treatment facility or air pollution control facility.

SOLID WASTE FACILITY: Any facility operated either publicly or privately pursuant to the laws of the Commonwealth of Pennsylvania governing the management, incineration and disposal of solid waste including, but not limited to: liquid, solid, toxic, hazardous, infectious and medical waste.

SPECIAL ANATOMICAL AREAS: Any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areoles.
2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIAL EXCEPTION: The granting of a modification of the provisions of this Ordinance as authorized in specific instances listed, and under the terms, procedures, and conditions prescribed herein. Special exceptions are administered by the Zoning Hearing Board.

SPECIFIED SEXUAL ACTIVITIES: Any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
3. Masturbation, actual or simulated.
4. Excretory functions as part of or in connection with any of the activities set forth in 1, 2, and 3 of this definition.

STABLE: A structure and/or land use in or on which equines are kept for personal use, sale or hire to the public. Breeding, boarding, or training of equines and on-site riding trails may also be conducted.

STAGING AREA: Any area where vehicles containing solid waste are parked or located prior to depositing said solid waste at a solid waste disposal facility.

STAND: Any area of forest vegetation whose site conditions, past history, and current species composition are sufficiently uniform to be managed as a unit.

STORAGE STRUCTURE: An accessory structure that is used for storage and does not have a door or other entranceway into a dwelling unit, is greater than one hundred fifty (150') square feet in floor area, and does not have water fixtures within its confines, the use of which is limited solely to storage of inanimate objects.

STORY (AND HALF-STORY): A level of a building routinely accessible to humans having an average vertical clearance seven feet (7') or greater shall be considered a full story, except as provided for in the definition of "basement." Any level of a building having an average vertical clearance from floor to ceiling of less than seven feet (7') shall be considered a "half-story."

STREET: A public or private thoroughfare, including road, highway, drive, lane, avenue, place, boulevard, and any other thoroughfare that affords the principal means of access to abutting property.

STREET RIGHT-OF-WAY LINE: The dividing line between the street and lot, also known as the street line or front lot line.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground. Among other things, structures include:

1. buildings; dwellings; mobile and manufactured homes; garages; sheds; barns and other agricultural structures; gazebos; carports; non-motorized or decommissioned rail cars, airplanes, helicopters, and military equipment
2. swimming pools
3. walls, excluding retaining walls
4. fences
5. tennis and other outdoor recreational courts
6. towers and masts

7. signs
8. billboards

Accessory outdoor recreational equipment, such as pop-up tents and children's play or swing sets, shall not be classified as a structure.

SUBDIVISION: The division or subdivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement or access or any residential dwelling, shall be exempted.

SWIMMING POOL: A structure, whether above or below grade level, designed to hold water more than twenty-four inches (24") deep to be used for recreational purposes, requiring water filtration, circulation, and purification; braces or supports; and is not capable of being readily relocated and stored away during non-swimming seasons.

TAVERN: An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where sandwiches and snacks may be available for consumption on the premises.

TEMPORARY USE: A use accessory to a permitted use that operates at a fixed location for a temporary period of time, including but not limited to contractors' offices; equipment sheds; real estate sales offices; temporary shelters; temporary portable on-demand storage containers; and outdoor festivals; carnivals; celebrations; country, craft, or county fairs; block parties; or picnics, held in conjunction with profit or non-profit organizations. Outdoor parties, celebrations, or special events held on the grounds of private residences by the residents of said property, where no fees are charged or collected or are held for charitable, educational, or political fundraising, shall not be considered a temporary use and shall not be subject to specific-use requirements set forth in §765 of this Ordinance.

THEATER: A building or part of a building devoted to the showing of moving pictures or theatrical productions on a paid admission basis.

THROUGH LOT: A lot extending between and having frontage on two streets.

TIMBER HARVESTING, TREE HARVESTING, OR LOGGING: That part of forestry involving cutting down trees and removing logs from the forest for the primary purpose of sale or commercial processing into wood products.

TOP: The upper portion of a felled tree that is not merchantable because of small size, taper, or defect.

TRACTOR-TRAILER, TRACTOR OF A: A truck with a minimum of three (3) axles that is intended to pull a trailer, as defined below, and not to carry goods itself.

TRACTOR-TRAILER, TRAILER OF A: A commercial vehicle twenty feet (20') or more in length that is not self-propelled, intended to haul materials, vehicles, goods, gases, or liquids, and intended to be pulled by a tractor, as defined above. This definition does not include recreational vehicles.

TRADE AND TECHNICAL SCHOOL: A school established to provide for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete educational curriculum, including but not limited to beauty schools, business management, computer training, driving education, fine and performing arts education, modeling school, and sports and recreation education.

TRANSIT-RELATED BUSINESS OR FACILITY: A business or facility owned, used, constructed, maintained, controlled, or operated to provide public or mass transportation for passengers. This use also includes the storage and/or maintenance of any motor driven fleet associated with the business, including but not limited to chartered, school, shuttle, special needs, local transit, and interurban buses; taxis and limousines.

TREATMENT CENTER: A use (other than a drug treatment center or permitted accessory use in a hospital) providing treatment for persons who need specialized care and/or counseling as outpatients or inpatients for either of the following:

1. Criminal rehabilitation, such as a criminal half-way house/transitional living facility or a treatment/housing center for persons convicting of driving under the influence of alcohol.
2. A type of mental illness or other behavior that could cause a person to be a threat to the physical safety of others.

UNIFORM CONSTRUCTION CODE (UCC): The Pennsylvania Construction Code Act, Act 45 of 1999 as amended; the statewide building code.

USE: The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

VARIANCE: Permission granted by the Zoning Hearing Board, following a hearing that is properly advertised, for an adjustment to some regulation that, if strictly adhered to, would result in an unnecessary hardship, and where the permission granted would not be contrary to the public interest, and would maintain the spirit and original intent of the Ordinance.

WALL: A constructed solid barrier of concrete, stone, brick, tile, wood, or similar type of material that closes, marks, or borders a field, yard, or lot, and that limits visibility and restricts the flow of air and light.

WAREHOUSE: See Distribution Center/Warehouse.

WASTEWATER TREATMENT FACILITY, NON-MUNICIPAL: A non-municipal facility not located on the same parcel where the wastewater is generated that is used for treating and removing any harmful chemicals, compounds (including the flow back water and solutions used in the process of hydraulic fracturing for natural gas), nutrients, organics, solids, radionuclides, or other materials prior to being transported off-site for reuse or discharged into a stream or into the soil. Such a facility typically includes a multi-bay truck loading/unloading station, skim pounds for oil/water separation, water clarifiers, sludge de-watering facilities, reverse osmosis units, evaporators, chemical feed equipment, pumps, and other appurtenances.

WATER BODY: A natural or manmade lake, pond, or reservoir.

WATERCOURSE: A natural or constructed drainage way for water, including permanent and intermittent streams.

WATER SUPPLY SYSTEM, CENTRALIZED: A public utility system or other centralized water supply system designed to transmit water from a common source to users, in compliance with the requirements of the appropriate State Agency or regulations of the Borough, whichever may be more stringent. Any system not deemed a centralized water supply system shall be deemed an on-lot system.

WETLANDS: Those areas, as regulated by PA DEP and the U. S. Army Corps of Engineers, that are inundated and saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.

WHOLESALE BUSINESS: An establishment or place of business primarily engaged in selling merchandise to business, customers, or other wholesalers (i.e. clients); or acting as agents or brokers and buying merchandise for, or selling merchandise to, clients. Wholesale businesses operate in such a way that its clients visit the facility to either (i) make a purchase; (ii) inspect the goods or services; or (iii) accept delivery or pick up the goods sold. Such facilities do not include businesses commonly known as "price clubs."

WIND ENERGY FACILITY: A facility where one (1) or more wind turbines or windmills and/or other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities are located and are used for the generation of electricity that is used on-site for commercial purposes, that is used off-site for any purpose, or that is sold on the open market. A wind turbine or windmill accessory to a principal structure that is sized and intended to be used to generate electricity primarily for the principal structure to which it is accessory shall not be considered a wind energy facility but shall meet all applicable accessory use requirements in this Ordinance.

WIND TURBINE OR WINDMILL: A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.

WIND TURBINE OR WINDMILL HEIGHT: The distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.

WINDOW: An opening to the outside other than a door that provides all or part of the required natural light, natural ventilation or both to an interior space. The glazed portion of a door in an exterior wall may be construed to be a window in regard to provision of natural light.

WINE-TASTING ROOM: A facility devoted to the sampling and sales of wine or beer produced on or off the premises. Sale of food is prohibited; however, incidental provision of food without compensation is allowed.

WIRELESS COMMUNICATIONS FACILITY (WCF): The set of equipment and network components including antennas, transmitters, receivers, base stations, cabling and accessory equipment used to provide wireless data and telecommunication services. The term shall not include the wireless support structure.

WIRELESS COMMUNICATIONS FACILITY (WCF), TOWER-BASED: Wireless communications facilities that include the installation of a new tower to support the transmission equipment. Replacements of existing towers are not considered a new Tower-Based WCF.

WIRELESS COMMUNICATIONS FACILITY (WCF), TOWER-BASED, HEIGHT OF: The vertical distance measured from the ground level to the highest point of a Wireless Communications Facility supported by a tower.

WIRELESS SUPPORT STRUCTURE: A freestanding structure, such as a guyed or self-supporting tower, electrical transmission tower, water tower, or other structures including but not limited to buildings, light poles, utility poles, flag poles, and traffic signals that could support the placement or installation of wireless telecommunications facilities.

YARD: An open space on the same lot with a building or group of buildings that lies between the principal building or group of buildings and the nearest lot line and that is unoccupied and unobstructed from the ground upward except as herein permitted.

YARD, FRONT: An open unoccupied space on the same lot with a principal building, extending the full width of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the street right-of-way line. Covered porches, whether enclosed or unenclosed, shall be considered as part of the principal building and shall not project into a required front yard.

YARD, REAR: An open unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the rear line of the principal building. A principal building shall not extend into the required rear yard.

YARD, SIDE: An open unoccupied space on the same lot with the principal building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line. A principal building shall not extend into the required side yards.

ZERO LOT LINE: The location of a building on a lot in such a manner that one (1) or more of the building's sides rests directly on a lot line.

ZONING: The designation of specified districts within a municipality or county, reserving them for certain uses together with limitations on lot size, heights of structures and other stipulated requirements.

ZONING HEARING BOARD: The Zoning Hearing Board of the Borough of Olyphant.

ZONING MAP: The official Zoning Map of the Borough of Olyphant, Lackawanna County, Pennsylvania.

ZONING OFFICER: The administrative officer charged with the duty of enforcing the provisions of this Ordinance.

ZONING ORDINANCE: The Borough of Olyphant Zoning Ordinance, as amended.

ARTICLE IV

ESTABLISHMENT OF DISTRICTS

401 GENERAL DISTRICTS

For the purposes of this Ordinance and in general consistency with the Borough's Comprehensive Plan, the Borough of Olyphant is divided into eleven (11) Zone Districts and two (2) Overlay Districts. They are as follows:

- R-1 Low Density Residential
- R-2 Medium Density Residential
- S Conservation
- C-1 Local Commercial
- C-2 Central Business District
- C-2A General Commercial
- IAC Interchange Activity Center
- M-1 Light Manufacturing
- M-2 Heavy Manufacturing
- CM-1 Mixed Commercial/Manufacturing
- CM-2 Large-Scale Mixed Commercial/Manufacturing
- FP Flood Plain Overlay District
- AH Airport Hazard Overlay District

402 INTENT OF ZONING DISTRICTS

R-1 Low Density Residential District

The purpose of the Low Density Residential District is to permit single family residential development on a minimum 10,000-square-foot lots that will offer a living environment with opportunities for privacy in areas of the Borough that have the potential for larger lot developments and open space.

R-2 Medium Density Residential District

The purpose of the Medium Density Residential District is to provide a location for single family dwellings on small lots as well as a prime location for two-family dwellings, townhomes and multi-family dwellings.

S Conservation District

The purpose of the Conservation District is to protect and preserve the existing open space, extensive steep slopes areas, drinking water supply areas, and plant and animal communities found within these portions of the Borough and to provide for the development of limited uses that are compatible with the unique and sensitive natural environment within this district at low densities and with suitable buffers and conditions that will minimize negative impacts of the development upon the environment.

C-1 Local Commercial District

The purpose of the Local Commercial Zoning District is to provide convenient, limited areas for shopping and services near residential neighborhoods. It is not the intent to make this district satisfy all commercial needs nor for it to become an employment center.

C-2 Central Business District

The intent of the Central Business District is to preserve and maintain the historical streetscape and core business district of the Borough where sidewalks exist and parking facilities are in close proximity.

C-2A General Commercial District

The intent of the General Commercial District is to provide areas for the location and development of business and service establishments designed to meet the needs of the local citizens and surrounding communities.

IAC Interchange Activity Center

The intent of the Interchange Activity Center is to provide an area around the Casey Highway interchange area (Exit 2) for mixed-use development including office-commercial, retail commercial, higher-density residential, institutional, and hospitality venues.

M-1 Light Manufacturing District

The purpose of the Light Manufacturing District is to provide locations within the Borough for light manufacturing and industrial uses to remain, expand or be developed.

M-2 Heavy Manufacturing District

The purpose of the Heavy Manufacturing District is to provide locations within the Borough for heavy manufacturing and industrial uses to remain, expand or be developed.

CM-1 Mixed Commercial/Manufacturing District

The purpose of the Commercial/Manufacturing District is to provide locations within the Borough for a mix of general commercial and light manufacturing uses.

CM-2 Large-Scale Mixed Commercial/Manufacturing District

The purpose of the Large-Scale Commercial/Manufacturing District is to provide locations within the Borough for a mix of large-scale commercial and a range of light, heavy, and other industrial or manufacturing uses to provide for regionalized shopping, services, hospitality venues, industry, and employment centers.

FP Flood Plain Overlay District

The intent of this overlay district is to permit uses and building regulations subject to the same requirements as the zone over which this district is laid, and to also subject the uses and building regulations to the requirements of the Olyphant Borough Flood Plain Management Ordinance. The boundaries of this overlay district coincides with the Zone A, 100-year flood, boundaries, as shown on the Flood Insurance Rate Map for the Borough of Olyphant, containing the most current effective date, and prepared by the Federal Emergency Management Agency, Federal Insurance Administration.

AH Airport Hazard Overlay District

The intent of this overlay district is to comply with PA Act 164 of 1984, the Airport Zoning Act, as regulated by Part 77 of Federal Aviation Regulations, by considering safety issues around the Wilkes-Barre/Scranton International Airport.

403 **ZONING MAP**

- A. The location and boundaries of these districts are established as shown on the attached Zoning Map of the Borough of Olyphant. The Zoning Map is hereby made a part of this Zoning Ordinance, together with all future notations, references and amendments.
- B. The Official Zoning Map shall be identified by the signatures of the Borough Council attested by the Borough Manager, and shall bear the adoption date of this Ordinance and the seal of the Borough under the following words: "This is to certify that this is the Official Zoning Map of Olyphant Borough."
- C. Changes of any nature to the Official Zoning Map shall be made in conformity with the amendment procedures set forth in this Ordinance. All changes shall be noted by date with a brief description of the nature of the change.
- D. Regardless of the existence of copies of the Official Zoning Map that may from time to time be made or published, the Official Zoning Map shall be located in the Borough Office and shall be the final authority on boundaries and districts. The Zoning Officer shall have a certified copy of the map for official use.
- E. If the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of changes and additions, the Borough Council may, by resolution, adopt a new Official Zoning Map that shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signatures of the Borough Council, attested to by the Borough Manager, and bearing the following words: "This is to certify that this Official Zoning Map supersedes and replaces all prior Official Zoning Maps adopted as part of the Olyphant Borough Zoning Ordinance, Lackawanna County, Pennsylvania."
- F. Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any part or parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

404 **RULES FOR INTERPRETING DISTRICT BOUNDARIES**

Should a dispute arise over the location of a zoning district boundary, the Borough Engineer shall decide on the exact location of the boundary line, applying the following rules for interpreting district boundaries:

- A. Boundaries drawn approximately following the centerlines of streets, alleys, railroads or other rights-of-way shall be construed to follow such centerlines.
- B. Boundaries approximately following lot lines shall be construed as following such lot lines in existence on the date of passage of the Official Zoning Map.
- C. Boundaries drawn approximately following the centerlines of rivers, streams, or drainage ways shall be construed to follow such centerlines, and in the event of change in the centerline shall be construed as moving with the actual centerline.
- D. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- E. Where physical features existing on the ground vary with those shown on the Official Zoning Map, or in other circumstances not covered by subsection A. through D. above, the Zoning Hearing Board shall then interpret the district boundaries.

ARTICLE V

LAND-USE REGULATIONS

501 APPLICATION OF DISTRICT REGULATIONS

- A. The regulations set by this Ordinance shall apply uniformly to each class or kind of structure or land, except as provided for in this Ordinance.
- B. No building or structure shall hereafter be erected, constructed, reconstructed, moved, or altered internally or externally and no building or structure or part thereof shall hereafter be used or occupied unless it is in conformity with the regulations specified for the district in which it is located. No lot, parcel of land, or water area shall be utilized, occupied, altered or improved unless it is in conformity with the regulations specified for the district in which it is located.
- C. No part of a yard, or other open space, or off-street parking or loading space required in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- D. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- E. Territory that may be annexed to the Borough shall be considered to be zoned in the same manner as the contiguous territory inside the previous Borough limits until otherwise classified.

502 TYPES OF USES

- A. Permitted Uses (Uses by Right). Uses listed as Permitted Uses within each District in Schedule I of this Article shall require no special action by the Zoning Hearing Board or the Governing Body before a Zoning Permit is granted by the Zoning Officer, provided that the use type, dimensional, and all other applicable requirements of this Ordinance are satisfied.
- B. Special Exception Uses. Uses listed as Special Exceptions in Schedule I of this Article shall require individual consideration in each case because of their unique characteristics. Such Special Exception Uses may be referred to the Borough Planning Commission by the Borough Zoning Hearing Board and may be permitted by the Zoning Hearing Board only after a hearing and determination by the Zoning Hearing Board that such proposed uses meet the standards, requirements, and intent of this Ordinance.
- C. Conditional Uses. Uses listed as Conditional Uses in Schedule I of this Article shall require individual consideration in each case because of their impact upon the lives of all persons within the Borough. Such Conditional Uses shall be referred to the Borough Planning Commission by the Governing Body and may be permitted by the Governing Body only after a hearing and determination by the Governing Body that such proposed uses meet the standards, requirements, and intent of this Ordinance.
- D. Accessory Uses. Accessory Uses are permitted to be established along with and upon the same parcel as the associated principal use provided that the associated principal use or structure was legally established as a Permitted Use, Special Exception Use, or Conditional Use and provided that all applicable requirements for accessory uses within this ordinance are satisfied. Accessory Uses shall require a Permit issued by the Zoning Officer, either by

right or after a Special Exception hearing before the Zoning Hearing Board, unless otherwise stated within this Ordinance.

E. Prohibited Uses. Any use not listed under the applicable Zoning District column of Schedule I of this Article shall be presumed to be prohibited within that district.

F. Unlisted Uses.

1. No Zoning Permit shall be issued for a use presumed to be prohibited, not specifically mentioned or described by category in Schedule I Regulations Governing the Use of Land. Evaluation of these uses shall be as set forth in subsection 2. below.
2. Uses not listed as a permitted use, special exception, or conditional use are presumed to be prohibited from the applicable zoning district. In the event that a particular use is not listed in Schedule I Regulations Governing the Use of Land, and such use is not prohibited by law, the Zoning Officer shall determine whether a materially similar use exists in this Article V. Should the Zoning Officer determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the Zoning Officer's decision shall be recorded in writing.
3. The Zoning Officer may determine that a use is materially similar if the use is listed as within the same Function or Structure classification as the use specifically enumerated in Schedule I Regulations Governing the Use of Land, as determined by the Land-Based Classification Standards (LBCS) of the American Planning Association [Reference: <https://www.planning.org/lbcs/standards/>]. The use shall be considered materially similar if it falls within the same LBCS classification.
4. In order to assist in interpretation of Schedule I Regulations Governing the Use of Land, the LBCS Function and Structure category numbers are listed at the right side of the row for each specific land-use. In interpreting Schedule I Regulations Governing the Use of Land, the following rules shall apply:
 - a. If a use is listed for a specific classification, while a more general classification within the same industry classification is also listed for another use, the specific classification governs. The specific use is not permitted in all zoning districts where the uses coded to the general classification are permitted simply because they share a similar LBCS code number. The LBCS numbers increase as the classifications become more specific.
 - b. Some uses are listed separately, but fall within the same LBCS classification. The uses within one such classification are not permitted in all of the zoning districts as the others simply because they fall within the same LBCS classification.
5. If the Zoning Officer determines that a materially similar use cannot be located within one of the LBCS classifications pursuant to subsection 3. above, he or she shall present the application for the proposed use to the Zoning Hearing Board, which shall have the authority to permit the use or deny the use as a special exception in accordance with the following:
 - a. The use may be permitted only if the Zoning Hearing Board makes all of the following findings, and the burden of proof shall be upon the applicant.
 - 1). The use is compatible with the uses listed for the subject zoning district by Schedule I Regulations Governing the Use of Land.

- 2). The use is no way conflicts with the intent of the zoning district and the general purpose and intent of this Ordinance.
 - 3). The use is not permitted in any other zoning district.
 - 4). No variance may be granted for any of the above findings 1) through 3). All three findings must strictly be met and enforced.
- b. The Zoning Hearing Board shall provide a copy of the application to the Borough Planning Commission at the time the application is received. The Zoning Hearing Board shall not conduct a hearing on the application until the comments from the Planning Commission are received or thirty (30) days has passed from the time the application was referred to the Planning Commission.
 - c. The Zoning Hearing Board may attach reasonable conditions and safeguards to any special exception granted for a use not specified in Schedule I Regulations Governing the Use of Land, incorporating standards from the Ordinance for compatible uses in the applicable zoning district and such other conditions as the Zoning Hearing Board may deem necessary to protect and promote the public health, safety, morals, and welfare and to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code.
6. If the Zoning Hearing Board denies the use as a special exception, after completion of the process as outlined in subsection 5 above, this Ordinance may be amended by the Governing Body to establish a specific listing for the use in question.

503 CONTINUATION OF EXISTING USES

Any legally established existing use of a building or structure, lot or parcel of land or part thereof, as of the effective date of this Ordinance may be continued, subject to any applicable conditions or requirements of this Ordinance.

504 SCHEDULE I

The following SCHEDULE I, REGULATIONS GOVERNING THE USE OF LAND, lists the various types of permitted, special exception, and conditional uses that are permitted within each Zoning District of the Borough of Olyphant.

SCHEDULE I REGULATIONS GOVERNING THE USE OF LAND

P = Permitted Use (Use by Right)
SE = Special Exception Use
CU = Conditional Use

Land Use	R-1	R-2	S	C-1	C-2	C-2A	IAC	M-1	M-2	CM-1	CM-2	Additional Regulations (see Section)	LBCS Function	LBCS Structure
Residential Uses														
Single-family dwellings	P	P	P										1100	1110
Two-unit attached dwellings		P										743	1100	1120
Duplex (over/under)		P										743	1100	1121
Townhouses		SE										743	1100	1140
Multi-Family Apartments, Garden Apartments		SE										743	1100	1200
Planned Residential Development (cluster)	SE		SE									746	1100	-
Mobile Home Parks			SE									742	1100	1150
Apartments with Commercial Use				P	P	P						707	1100	2300
Group Homes or Halfway Houses	P	P	P									732	1230	1100
Rooming and Boarding Houses		SE										757	1320	1110, 1340
Bed and Breakfast Inns		SE										712	1310	1110
Assisted Living, Nursing & Personal Care Homes	SE	SE										709	1210, 1240 1250, 6520	-
Retirement Housing		SE										743	1210	1200
Hotels					P		P				P	737	1330	1330
Motels							P				P	737	1330	1330
Conversion from Non-residential Use to Residential Units	P	P	P									723	1100	1360
Conversion from Single-Family to Duplex/Two-Unit		P										723A	1100	1120, 1121

SCHEDULE I REGULATIONS GOVERNING THE USE OF LAND (continued)

P = Permitted Use (Use by Right)

SE = Special Exception Use

CU = Conditional Use

Land Use	R-1	R-2	S	C-1	C-2	C-2A	IAC	M-1	M-2	CM-1	CM-2	Additional Regulations (see Section)	LBCS Function	LBCS Structure
Accessory Uses														
Agricultural Buildings			P									705	-	8100, 8200 8300, 8400 8800, 8900
Assisted-Care Apartment Units	SE	SE	SE									708	1100	1130
Farm Stands			P			P						727	2154	6920
Fences, Gates, & Walls	P	P	P	P	P	P	P	P	P	P	P	728	-	-
Garage or Yard Sales	P	P	P	P	P					P	P	731	-	-
Guest Houses	SE	SE	SE							SE	SE	733	1100	1100
Pool Houses	P	P	P	P	P					P	P	733	-	-
Home-Based Businesses, Minimal Impact	SE	SE	SE	SE	SE					SE	SE	734	-	-
Home-Based Businesses, No Impact	P	P	P	P	P					P	P	735	-	-
Home Share	SE	SE	SE	SE	SE					SE	SE	720	-	-
Outdoor Wood-Fired Furnaces	P	P	P	P	P	P	P	P	P	P	P	774	-	-
Parking Lots, accessory to Principal Use	P	P	P	P	P	P	P	P	P	P	P	1002-1003	-	5200
Patios, Decks, and Gazebos	P	P	P	P	P					P	P	745B	-	-
Private Garages & Carports	P	P	P	P	P					P	P	747	-	-
Private Greenhouses & Gardens	P	P	P	P	P					P	P	748	9141	8500
Private Indoor Recreation	SE	SE	SE							P	P	749	-	3200
Private Outdoor Tennis & Similar Courts	SE	SE	SE							P	P	751	-	-
Private Swimming Pools & Hot Tubs	P	P	P	P	P					P	P	752	-	-
Satellite Dish Antennas	P	P	P	P	P	P	P	P	P	P	P		-	-
Sheds & Storage Structures	P	P	P	P	P	P	P	P	P	P	P	761A	-	-
Signs	P	P	P	P	P	P	P	P	P	P	P	762, Art IX	-	6700
Solar Collectors, accessory to Principal Use	P	P	P	P	P	P	P	P	P	P	P	764	4314	6460
Temporary Uses	P	P	P	P	P	P	P	P	P	P	P	765	-	1350, 4440, 6900
Wind Turbines, accessory to Principal Use			SE					SE	SE		SE	771	4314	6460
Outdoor Storage, Commercial or Industrial						P	P	P	P	P	P	767	-	9000

SCHEDULE I REGULATIONS GOVERNING THE USE OF LAND (continued)

P = Permitted Use (Use by Right)

SE = Special Exception Use

CU = Conditional Use

*M-1/M-2/CM-2 – No Billboards allowed along, or to be seen from, Casey Highway (PA Scenic Byway).

Land Use	R-1	R-2	S	C-1	C-2	C-2A	IAC	M-1	M-2	CM-1	CM-2	Additional Regulations (see Section)	LBCS Function	LBCS Structure
Commercial Uses														
Adult Businesses											CU	703	-	-
Animal Hospitals or Veterinary Clinics						P	P			P	P	706	2418	4120
Bakery & Confectionary Products (on-site retail)				P	P	P	P				P	710A	3110	-
Banks, Finance, and Insurance				P	P	P	P				P		2200	2100
Banquet Facilities							P				P	711	2560	2220, 3800
Bicycle Rentals or Sales				P	P	P					P	712A	2113, 2333	-
Billboards, Off-site Advertising						SE		SE*	SE*		SE*	713	-	6700
Boutique Wineries					P	P	P				P		3110	-
Bulk Fuel Storage								SE	SE		SE	714	-	2780
Car Washes						P	P				P			
Commercial Greenhouses or Nurseries						P		P	P	P	P	705	9140	8500
Commercial Offices or Services				P	P	P	P			P	P		2300, 2600, 2700	2100, 2300, 2400
Contractor's Offices and Yards								P	P	P	P	721	7000	-
Convenient Stores with or without Gas Pumps					P	P	P				P	722	2116, 2152	2591
Flea Markets										SE	SE	729	2145	6910, 6920
Funeral Homes or Mortuaries				SE	SE	SE						750	6710	4800
Kennels			P								P	706	2720	8700
Lumberyards						P		P	P	P	P		2126	-
New or Used Car, Motorcycle, Moped, ATV, or Trailer Rentals or Sales						P	P				P	743A	2111-2114 2331-2333	-
Nightclubs					P	P	P			P	P	744A	2540	-
Professional Offices or Services	SE	SE		P	P	P	P	P		P	P		2400	4120
Public or Commercial Parking (principal use)					P	P					P	753	-	5200
Restaurants, Cafes or Coffee Houses				P	P	P	P				P		2510-2530	2220
Retail Businesses				P	P	P	P				P		2100	2210-2260

SCHEDULE I REGULATIONS GOVERNING THE USE OF LAND (continued)

*LBCS Function categories 3310 & 3320
excluded from Heavy Industry in CM-2 zone.

P = Permitted Use (Use by Right)

SE = Special Exception Use

CU = Conditional Use

Land Use	R-1	R-2	S	C-1	C-2	C-2A	IAC	M-1	M-2	CM-1	CM-2	Additional Regulations (see Section)	LBCS Function	LBCS Structure
Commercial Uses (continued)														
Self-Storage Facilities						SE		P	P	SE	SE			
Service Station, Minor Auto Repairs				P	P	P	P			P	P	710	2116	2270, 2280
Service Station, Major Auto Repairs						P	P	P		P	P	710	2116	2270, 2280
Shopping Malls, Centers or Plazas						P	P	P			P	761	-	2500
Stables			P									718	-	8240
Taverns and Bottle Clubs				P	P	P	P				P	744A	2540	-
Transit-Related Businesses and Maintenance Facilities							P				P	766	4130	3930, 5400
Wholesaling						P	P	P	P		P		3500	-
Wine Tasting Rooms					P	P	P			P		769	2155	-
Manufacturing Uses														
Industry, Heavy								P	P		p*	738	3100, 3200 3300	2620
Industry, Light								P	P	P	P	738	3400	2610
Junk Yards & Automobile Wrecking											CU	739	-	-
Machine Shops								P	P		P	740	3350, 3360	2610
Medical Marijuana Facilities								P	P		P	Art IX-B	3320	2620
Recycling Facilities									P		P	754	4346	-
Research Laboratories								P	P		P	756	2416	2615
Sanitary Landfill											CU	758	4345	6320
Sawmills or Planing Mills			SE								SE	758A	3210	8000
Slaughterhouses											CU	763	9300	-
Solid Waste Facilities											CU	758	4340	6300
Tire Re-treading and Recapping								P	P		P	740	2115	-
Warehousing and/or Distribution								P	P		P	767	3600, 4140 4160	2700
Wastewater Treatment Facility, Non- Municipal										CU		767A	4342	6270

SCHEDULE I REGULATIONS GOVERNING THE USE OF LAND (continued)

P = Permitted Use (Use by Right)

SE = Special Exception Use

CU = Conditional Use

Land Use	R-1	R-2	S	C-1	C-2	C-2A	IAC	M-1	M-2	CM-1	CM-2	Additional Regulations (see Section)	LBCS Function	LBCS Structure
Services & Public Uses														
Abused Person Shelters											SE	702	6565	-
Adult or Child Day Care Centers or Nursery Schools and Preschools				P	P	P	P				P	704	6110, 6562 6566	-
Cemeteries and Mausoleums	SE	SE	SE								SE	716	6720	4700
Colleges/Universities and Dormitories							SE				SE	759	1320, 6130	1320, 4220
Correctional Facilities											CU	724	6222	4600
Crematoriums and Columbarium								P	P		P	725	6720	4800
Drug & Other Treatment Centers											SE	726	6520	-
Essential Services	P	P	P	P	P	P	P	P	P	P	P		-	6100, 6200 6310, 6440
Helipads/Heliports			SE				SE				SE	733A	4115	-
Hospitals							SE				SE	736	6530	4110
Medical Clinics	SE	SE		P	P	P	P				P		6510	4120
Public Buildings & Uses	SE	SE			P	P	P	P	P	P	P		6120, 6200 6300, 6400	4210, 4500
Publishing & Information Services					P	P	P	P	P	P	P		4210, 4220	-
Religious Institutions	SE	SE		SE	SE	SE						755	6600	3500
Semi-Public Buildings & Uses	SE	SE		P	P	P	P	P	P	P	P		6120, 6410 6430	4210, 4510 4530
Social Services					P	P							6560	-
Television/Radio Stations							P			P	P		4230	-
Trade & Technical Schools						P	P	P	P	P	P	765A	6140	4230
Wireless Communication Facilities on existing structures	P	P	P	P	P	P	P	P	P	P	P	719	4230	-
Tower-Based Wireless Communication Facilities ≤ 40' in height			SE	SE	SE	SE	SE	SE	SE	SE	SE	719	4230	6500
Tower-Based Wireless Communication Facilities > 40' in height			SE				SE	SE	SE	SE	SE	719	4233	6510

P = Permitted Use (Use by Right) SCHEDULE I REGULATIONS GOVERNING THE USE OF LAND (continued) SE = Special Exception Use CU = Conditional Use														
Land Use	R-1	R-2	S	C-1	C-2	C-2A	IAC	M-1	M-2	CM-1	CM-2	Additional Regulations (see Section)	LBCS Function	LBCS Structure
Recreational Uses														
Campgrounds			SE							SE	SE	715	5400	-
Commercial Indoor Recreation					P	P	P	P	P	P	P	717	5320, 5370 5380, 5390	3200
Country Clubs, Golf Courses & Driving Ranges			SE							SE	SE	724A	-	-
Cultural Facilities, Galleries and Libraries					P	P	P						4242, 5200	3400, 4300 4400
Fraternal, Civic, & Social Clubs and Non-Profit Organization				SE	P	P	P			P	P		6800	-
Group Picnic Area or Grove, Commercial			P							P	P	753A	5500	6940
Outdoor Exhibitions, Sports Assembly, Entertainment & Amusements										CU	CU	745	5120, 5130 5140, 5230 5310, 5340	3130, 3300 4440, 4450 6970
Outdoor Recreation & Sports										CU	CU	745A	5350, 5370 5390	-
Public Parks & Playgrounds	P	P	P	P	P	P	P	P	P	P	P		5500	6940, 6950 6970
Resorts or Conference Centers							CU			CU	CU	756A	1330, 1340	1330, 3400
Theaters					P	P	P			P	P		5110	3110, 3120
Resource Production and Extraction Uses														
Agricultural Operations and Products Processing			P								P	705	9100, 9200, 9300	8000
Culm Bank Removal	SE	SE	SE	SE	SE	SE	SE	SE	SE		SE		-	-
Oil and Gas Exploration, Extraction & Development											CU	744, Art IX-A	8100	-
Energy Storage Facility, Large Scale			P								P		4310	6410, 6440
Forestry	P	P	P	P	P	P	P	P	P	P	P	730	9400	-
Hydraulic Fracturing Water Withdrawal			CU								CU	767B	-	-
Mineral and Natural Resource Extraction and Processing			SE								SE	741	8300, 8400, 8500	-

P = Permitted Use (Use by Right) **SCHEDULE I REGULATIONS GOVERNING THE USE OF LAND (continued)**
 SE = Special Exception Use
 CU = Conditional Use

Resource Production and Extraction Uses (continued)

Land Use	R-1	R-2	S	C-1	C-2	C-2A	IAC	M-1	M-2	CM-1	CM-2	Additional Regulations (see Section)	LBCS Function	LBCS Structure
Power Facility, excluding Solar & Wind Energy								CU	CU		CU	772	4311, 4312, 4313	6430
Solar Energy Facility			SE								SE	764A	4314	6460
Water Extraction & Bottling			SE									768	3110	2620, 6260
Wind Energy Facility			SE								SE	770	4314	6460

ARTICLE VI

LOT AND YARD REGULATIONS

601 MINIMUM LOT AREA AND DIMENSION REGULATIONS

- A. The minimum lot area and dimension requirements shown in Schedule II shall be met for all new dwelling units, principal buildings or uses where applicable, unless otherwise specified for specific uses or use groups in Article VII.
- B. Areas within public or private street or road rights-of-way shall not be included in the calculation of, or used to meet the minimum lot sizes for any proposed residential or non-residential use.
- C. The lot or yard requirements for any new building or use shall not include any part of a lot that is required by any other building or use to comply with requirements of this Ordinance. No required lot area or yard shall include any property, the ownership of which has been transferred subsequent to the effective date of this Ordinance, if such property was a part of the area required for compliance with the dimensional requirements applicable to the lot from which such transfer was made.
- D. In all cases, proposed lot dimensions and lot areas shall be adequate to provide space for all proposed buildings, structures, and use areas, and all required support facilities, parking and setback or yard areas.

602 MINIMUM YARD REGULATIONS

- A. Minimum yards or building setback distances shall be in accordance with Schedule II and as specified for specific uses in Article VII.
- B. Where a minimum depth of a front yard is specified, an open space of at least the specified depth shall be provided between the street line or lines and the nearest point of any building or structure, unless otherwise provided for in Article VII.
- C. The front yard of an unimproved lot situated between two (2) improved lots having a principal building within twenty-five (25') feet of the side lot line of said unimproved lot may be reduced to the greatest depth of the front yard of the two (2) improved lots.
- D. In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Zoning Officer may waive the requirements for the normal front yard and substitute a special yard requirement that shall not exceed the average of the yards provided on adjacent lots.
- E. On a corner lot, each yard facing each street shall equal the required front yard.
- F. Where a minimum width of a side yard is specified, an open space of at least the specified depth shall be provided from each side lot line and the nearest point of any building or structure, unless otherwise provided for in Article VII.
- G. Where a minimum width of a rear yard is specified, an open space of at least the specified depth shall be provided from the rear lot line and the nearest point of any building or structure, unless otherwise provided for in Article VII.

603 SCHEDULE II - LOT, YARD, COVERAGE, AND HEIGHT REGULATIONS

Lot, yard, coverage, and height regulations shall be as established by the following Schedule II.

SCHEDULE II LOT, YARD, COVERAGE, AND HEIGHT REGULATIONS

DISTRICTS

<i>REGULATIONS</i>	R-1	R-2	S	C-1	C-2	C-2A	IAC	M-1	M-2	CM-1	CM-2
Maximum Lot Coverage ^(b)	25%	40%	10%	—(i)	—(i)	50%	50%	70%	70%	50%	70%
Maximum Building Height ^(a)											
Stories	2-1/2	2-1/2 ^(e)	2-1/2	2-1/2	2	2.5	4	N/A	N/A	2	N/A
Feet	35	35 ^(e)	35	35	40	40	80 ^(k)	80 ^(k)	80 ^(k)	40	80 ^(k)
Minimum Yards (in Feet) ^(a)											
Front	25	25	25	—(i)	—(i)	25	30	30	50	30	30
Each Side	10	8 ^(f)	25	10	—(i)	10	25	25	25	25	25
Rear	50	30	25	20	20	20	30	30	50	30	30
Minimum Lot Dimensions ^(a)											
Width (in feet)	80	70 ^(g)	150	—(i)	—(i)	100	150	150	200	150	150
Depth (in feet)	125	100	150	—(i)	—(i)	100	150	150	200	150	150
Minimum Net Lot Area (in square feet)	10,000	7,000	43,560	—(i)	—(i)	—(i)	22,500	22,500	87,120	43,560	43,560
Net Lot Area ^(c) per dwelling unit ^(d) (in square feet)	10,000	7,000(SF) 3,500(TF) ^(d)	43,560 ^(h) 5,445(MHP)	—(i)	—(i)	—(i)	—(i)	N/A	N/A	—(i)	—(i)

NOTES:

- (a) Minimum yard and lot dimensions and maximum heights shall be as set forth above unless otherwise specified under Articles VII and/or VIII of this ordinance.

- (b) Includes the roof areas of all principal and accessory buildings plus areas of other impervious surfaces as defined by this Ordinance used for streets, driveways, parking areas, tennis and other recreational courts, sidewalks, and uncovered porches and decks. See §803A for Pervious Pavement Standards.
- (c) As defined in Section 302 of this Ordinance for LOT AREA, NET.
- (d) Area per each individual dwelling unit. For example, a two-unit attached dwelling would require a minimum area of 7,000 square feet (3,500 sf X 2 units = 7,000 sf)
- (e) Maximum height requirements for housing for the elderly and other multi-family structures (excluding townhouses and garden apartments) may be increased to 6 stories or 70 feet.
- (f) Minimum side yards for multi-family structures containing five (5) or more dwelling units shall not be less than 25' for each side yard.
- (g) The minimum lot width per dwelling unit for structures with more than 2 dwelling units shall be increased by 8' for each additional dwelling unit, except as follows: [a] The minimum lot width for garden apartments shall be 300'; [b] The minimum lot width for each townhouse unit shall be 15' except for end units which shall be 40' to a street line and not less than 30' on interior end-units.
- (h) The minimum lot size shall be five (5) acres for a mobile home park.
- (i) None required except for dwellings, which shall be governed by R-2 district regulations.
- (k) On a lot with a rear or side yard abutting any R-district or residential use, buildings exceeding 40 feet in height shall be set back one (1) additional foot beyond the applicable minimum yard requirement for each one additional foot of building height. The additional building setback requirement does not apply to front yards, or when the R-district of residential use is separated from the subject property by any public right-of-way. (e.g. street, alley, railroad, etc.)

(SF) = Single-family dwelling
 (TF) = Two-unit attached dwelling or duplex on a single existing lot of record
 (MHP) = Mobile Home Park development
 N/A = Not applicable

ARTICLE VII

SPECIFIC USE DEVELOPMENT REQUIREMENTS

701 APPLICABILITY

- A. This Article establishes additional specific requirements for certain uses in addition to the requirements of Articles VI, VIII, IX and X. These uses, whether principal or accessory, have unique or differing characteristics and require more restrictive or greater than minimum general regulations. Wherever two or more conflicting requirements apply to the same use or structure, the most restrictive requirement shall apply.
- B. For uses allowed as Special Exceptions or Conditional Uses under Article V, the procedures and general standards set forth under Article XII shall apply as well as the standards set forth in this Article VII.
- C. Measurement of additional setbacks required for specific uses in this Article VII shall be measured from the nearest edge of the building used for the specific use, in a straight line without regard to intervening structures or objects, to the nearest lot line of the premises of the use or zone district from which the required setback applies.
- D. In addition to the requirements of this Article VII, all uses shall comply with applicable requirements of the Uniform Construction Code, as adopted by Olyphant Borough.

702 ABUSED PERSON SHELTER (Special Exception: CM-2)

- A. A maximum of fifteen (15) residents shall be allowed, including any staff or volunteers who routinely stay overnight.
- B. Secure locks and alarm systems to protect the occupants from physical violence shall be installed.
- C. The Zoning Hearing Board may place conditions on the use as necessary to protect public safety.
- D. Any state or federal licensing requirements shall be met and evidence of such licensing shall be provided to the Zoning Officer and Zoning Hearing Board.

703 ADULT BUSINESS (Conditional Use: CM-2)

- A. Findings.

In adopting these standards that apply to adult businesses, the Governing Body has made the following findings in regard to the secondary effects on the health, safety, and welfare of the citizens of the Borough of Olyphant. The findings are based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Board, and on findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc.* 475 U.S. 41 (1986), *Young v. American Mini Theaters*, 426 U.S. 50 (1976), and *Northend Cinema, Inc. v. Seattle*, 585 P. 2d 1153 (Wash. 1978), and on studies in other communities including but not limited to Phoenix AZ, Minneapolis MN, Saint Paul MN, Manatee County FL, Houston TX, Indianapolis IN, Amarillo TX, Los Angeles CA, Austin TX, Seattle WA, Oklahoma City OK, Beaumont TX, and New York NY; and also on findings found in the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*, June 6, 1989, State of Minnesota.

1. The concern over sexually transmitted diseases is a legitimate health concern of the Borough of Olyphant that demands reasonable regulation of adult businesses and adult uses in order to protect the health and well-being of its citizens.
2. Certain employees of sexually oriented businesses regulated by this Ordinance as adult theaters and cabarets engage in higher incidents of certain types of sexually oriented behavior at these businesses than employees of other establishments.
3. Sexual acts, including masturbation, oral and anal sex, occur at sexually oriented businesses, especially those that provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows, as regulated by this Ordinance as adult book stores, adult novelty shops, adult video stores, adult motion picture theaters, or adult arcades.
4. Offering and providing such space encourages such activities, which create unhealthy conditions.
5. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
6. At least fifty (50) communicable diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to syphilis, gonorrhea, human immunodeficiency virus infections (AIDS), genital herpes, hepatitis B, non-B amebiasis, salmonella infections and shigella infections; and, the incidence of many of these diseases is on the increase.
7. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and operators of the facilities to self-regulate those activities and maintain those facilities.
8. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view adult-oriented films.
9. Classifying adult businesses as conditional uses is a reasonable means of accountability to ensure that operators of adult businesses comply with reasonable regulations and conditions, and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
10. There is convincing documented evidence that adult businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, the downgrading of property values, and the decline of the overall character of the community. A number of municipal studies, including the 1986 Austin, Texas, study, have demonstrated this.
11. It is generally recognized that adult businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to neighborhood blight and downgrading the quality of life in the adjacent area. A number of municipal studies, including the 1986 Austin TX study, have demonstrated this.
12. The Borough of Olyphant desires to minimize and control these adverse secondary effects and thereby protect the health, safety, and welfare of the citizenry, protect the citizens from increased crime, preserve the quality of life, preserve property values and the character of the surrounding community.

B. Intent.

The intent of this §703.B. is to:

1. Regulate adult businesses in order to promote the public health, safety, and welfare by minimizing the secondary effects on the community that are associated with such businesses, and that include difficulties for law enforcement, trash disposal, deleterious effects on business and residential property values, increased crime (particularly the corruption of morals of minors and prostitution), and drive residents and businesses to move elsewhere.
2. Designate a zoning district where adult businesses are permitted, and establish reasonable content-neutral standards applicable to such uses.
3. Have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials including sexually oriented or adult materials.
4. Not totally restrict or deny access by adults to sexually oriented materials or adult materials protected by the First Amendment of the Bill of Rights of the United States Constitution.
5. Not deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
6. Not condone or legitimize the distribution of obscene material, or to encourage any violation of the PA Crime Code or PA Obscenity Code.

C. Classification.

Adult businesses are classified as Conditional Uses in the CM-2 Large-Scale Commercial/Manufacturing zoning district.

D. Standards.

The following standards shall apply to adult businesses, in addition to applicable general and special exception standards contained in this Ordinance:

1. *Setbacks* — Adult businesses shall not be located less than:
 - a. Three hundred feet (300') from any
 - 1). residence
 - 2). group home
 - 3). retirement housing
 - 4). abused person shelter
 - 5). adult or child day care center
 - 6). drug treatment or treatment center
 - 7). public or semi-public buildings and uses, excluding schools
 - 8). parks, playgrounds, outdoor recreation and sports, or campgrounds
 - 9). hospital and medical clinics
 - 10). assisted living, personal care or nursing homes
 - 11). commercial uses catering primarily to persons under age 18
 - 12). any commercial use that sells alcoholic beverages

- b. One thousand feet (1000') from any
 - 1). place of religious worship
 - 2). public or private school
 - 3). colleges or universities and dormitories
- c. One hundred feet (100') from any property line or road right-of-way.
2. *Similar Businesses* — Adult businesses shall not be located within five hundred feet (500') of any existing adult business.
3. *Measurements* — The setback distances established in §703.D.1. shall be measured from the nearest edge of the building used for an adult business, in a straight line without regard to intervening structures or objects, to the nearest lot line of the premises of the use from which the required setback applies.
4. *Enlargement* — Any enlargement or expansion of an existing, legally created adult business shall be considered a special exception subject to the provisions of this §703 and all other applicable standards of this Ordinance.
5. *Use Limit* — It shall be a violation of this Ordinance for any person to cause or permit the operation, establishment, or maintenance of more than one (1) adult business in the same business, structure or portion thereof, or an increase of floor areas of any adult business in any building, structure or portion thereof that contains another adult business.
6. *Nonconformity* — Any adult business lawfully operating on the date of enactment of this Ordinance that is in violation of any of the provisions of this §703 shall be considered a nonconforming use. Such nonconforming uses shall be increased, enlarged, altered, or extended, only in accordance with Article XI Nonconforming Uses and Structures and all other applicable standards of this Ordinance. The use may be changed to a conforming use. However, under no circumstances, shall a nonconforming use as defined and regulated by this Ordinance be changed to any type of adult business.
7. *New Neighboring Uses* — An adult business lawfully operating as a conforming use shall not be rendered a nonconforming use if a use, from which an adult business is required to provide a setback under this §703, is developed within the required setback distance.
8. *Alcohol* — No adult business shall be operated in combination with the sale and/or consumption of alcoholic beverages on the premises.
9. *Signs* — The building shall either have no windows or windows that are screened as to only see out and not into the building. No sexually explicit material, signs, displays, or words, shall be visible at any time from outside the building. Exterior signs shall comply with applicable sign regulations set forth in Article IX; however, contents of such signs shall be limited to only the text of the name of the business and hours of operation.
10. *Exemption for Modeling Class* — A person appearing in a state of nudity, doing so in a modeling class operated by any of the following, is exempt from classification as a participant of a nude model studio as defined in §302:
 - a. A proprietary school, licensed by the state, or an academically accredited college or university.

- b. A private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
- c. In a structure
 - 1). that has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - 2). where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
 - 3). where no more than one (1) nude model is on the premises at any one time.
- d. An organization that qualifies under Section 501(c)(3) of the U.S. Internal Revenue Code as a non-profit organization or foundation.

704 ADULT DAY CARE, CHILD DAY CARE, NURSERY AND/OR PRESCHOOL (Permitted Use: C-1, C-2, C-2A, IAC, CM-2)

- A. The use shall hold an approved PA Department of Welfare or PA Department of Education registration certificate or license, as appropriate.
- B. No off-premises outdoor play area shall be utilized.
- C. Any outdoor activities shall be limited to the hours between 10 AM and 5 PM.
- D. A secure fence with a minimum height of four feet (4') shall surround any on-premises area used for outdoor play.
- E. No portion of the outside play area shall be less than fifty feet (50') from an existing occupied dwelling without the dwelling owner's written consent.
- F. A vehicular circulation plan shall be submitted with the permit application. There shall be one safe passenger unloading space measured ten feet (10') by twenty feet (20') for each six (6) children that the facility is licensed to accommodate. Off-street parking shall meet the requirements of Article X of this Ordinance.
- G. Any sign shall comply with applicable sign regulations set forth in Article IX.
- H. Borough officials reserve the right to make periodic inspections to ensure continued compliance with all state and local requirements.
- I. The regulations set forth in this §704 shall not apply to child day care centers operated as a home-based business (See §734) or located within a place of worship or business where care is limited to employees' children.
- J. A state-issued Certificate of Occupancy shall be required for any Adult Day Care, Child Day Care, Nursery or Preschool.

**705 AGRICULTURAL BUILDING (Permitted Accessory Use: S)
AGRICULTURAL OPERATION AND PRODUCTS PROCESSING (Permitted Use: S, CM-2)
COMMERCIAL GREENHOUSES AND NURSERIES: (Permitted Use: C-2A, M-1, M-2, CM-1, CM-2)**

- A. A minimum of two (2) acres shall be required for the keeping and raising of livestock and/or poultry. The keeping and raising of livestock shall be limited to two (2) head of livestock per one (1) acre of land. The keeping and raising of poultry shall be limited to twenty (20) head of poultry per one (1) acre of land.
- B. Buildings in which livestock or poultry are kept shall not hereafter be erected within one hundred feet (100') of any lot line.
- C. Storage of manure and/or odor or dust-producing substances shall not be permitted within two hundred feet (200') of any lot line.
- D. Greenhouse heating plants shall not be operated within fifty feet (50') of any lot line.
- E. Other crop production or products processing buildings shall not be erected within fifty feet (50') of any lot line.
- F. Where permitted, residential dwellings in association with an agricultural operation, greenhouse, or nursery shall comply with minimum yard requirements as set forth in Schedule II of the Ordinance for the zone district in which the use is located.

**706 ANIMAL HOSPITAL OR VETERINARY CLINIC (Permitted Uses: C-2A, IAC, CM-1, CM-2)
KENNEL (Permitted Use: S, CM-1, CM-2)**

- A. No such use shall be located closer than one hundred feet (100') to any R-district boundary, residential use, restaurant, or hotel/motel.
- B. All applicable state laws governing kennels and/or animal hospitals and veterinary clinics must be met, and any license or certification must be provided to the Zoning Officer.
- C. No animal shall be permitted to use outdoor runs from 8 PM to 8 AM. Runs shall be separated from each other by visual barriers a minimum of four feet (4') in height, to minimize dog barking.
- D. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any residential use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be five feet (5').
- E. The uses shall be maintained in a sanitary manner to avoid noxious odors to other properties. No incineration of refuse shall be permitted on-site. All Regulation of Nuisance Elements set forth in §809 of this Ordinance shall be met.

707 APARTMENTS WITH COMMERCIAL USE (Permitted Use: C-1, C-2, C-2A)

- A. A maximum of two (2) apartment units may be permitted in a structure where the principal use on the ground or first floor is clearly commercial in nature.
- B. One (1) off-street parking space for each apartment unit shall be provided on site, in addition to the minimum off-street parking spaces required for the commercial use.
- C. Fire escapes shall not be located on any wall facing a street.

708 ASSISTED-CARE ACCESSORY APARTMENT UNIT (Special Exception Accessory Use: R-1, R-2, S)

- A. One (1) temporary accessory apartment shall be allowed on any lot containing a single-family detached dwelling without an increase in density per dwelling requirements. The apartment must be in or attached to the principal structure. Accessory apartments shall not be allowed in conjunction with two-unit attached dwellings, duplexes, multi-family dwellings, mobile homes in a mobile home park, or bed and breakfast inns.
- B. The occupancy of the assisted-care accessory apartment unit shall be limited to the infirmed, aged, or ill relative of the permanent resident of the principal dwelling on the property.
- C. Under no circumstance shall the use have a maximum gross floor area greater than 800 square feet. Any dwelling unit over 800 square feet shall be considered a principal dwelling or structure and shall be subject to all density and setback requirements for principal dwellings and structures.
- D. All applicable setback requirements for principal dwellings shall be met for assisted-care apartment units.
- E. Assisted-care apartment units shall not require approval as a "Land Development" under the Olyphant Borough Subdivision and Land Development Ordinance.
- F. A legally binding agreement for execution between the property owner and the Borough to provide for the elimination of the unit when the unit is no longer occupied by the relative requiring care shall be submitted with the zoning permit application.
- G. The assisted-care apartment unit shall be designed and installed in such a way that it can be easily converted into part of the principal structure.

709 ASSISTED LIVING FACILITY, NURSING AND PERSONAL-CARE HOME (Special Exception: R-1, R-2)

- A. The uses shall have a minimum net lot area of three thousand (3000) square feet for each bed or residential accommodation, but in no case less than two (2) acres of net lot area. Buildings shall be setback a minimum of fifty feet (50') from all property lines.
- B. No Assisted Living Facility, Nursing and/or Personal-Care Home shall be operated unless it is licensed by the appropriate Commonwealth agency. Proof of licensing shall be submitted to the Borough upon receipt by the facility.
- C. A minimum of five percent (5%) of the net buildable area shall be suitable and developed for outdoor passive recreation. This shall include sitting areas and pedestrian walks.

**710 SERVICE STATION, MINOR AUTO REPAIRS (Permitted Use: C-1, C-2, C-2A, IAC, CM-1, CM-2)
SERVICE STATION, MAJOR AUTO REPAIRS (Permitted Use: C-2A, IAC, M-1, CM-1, CM-2)
CAR WASH (Permitted Use: C-2A, IAC, CM-2)**

- A. All major repair, welding, and painting shall be performed within a building with a fume collection and ventilation system that directs noxious fumes away from any adjacent dwellings or structures.

- B. Provisions shall be made to prevent or minimize noise, odor, vibration, glare, or electrical interference nuisances to adjacent properties. Compliance with §809 of this Ordinance shall be required.
- C. Outdoor storage of motor vehicles shall not be within ten feet (10') of any property line or road right-of-way.
- D. A wall or solid fence five feet (5') in height shall be provided, and maintained, along all side and rear yards that abut any R-district or any Residential Use as listed in Schedule I and defined by Article III of this Ordinance.
- E. Service-bay doors or car wash stalls shall not face directly toward an abutting residential dwelling, other than a dwelling separated from the shop or station by a street right-of-way.
- F. No open pit or non-protected hoist shall be allowed outside a completely enclosed structure.
- G. Fuel pumps shall be at least twenty-five feet (25') from all property lines. Canopies over fuel pumps shall be at least ten (10') from all property lines.
- H. A minimum stacking area for three (3) vehicles at each cluster of pumps shall be provided without causing an obstruction of access to or from street rights-of-way.
- I. Access points shall be limited to two (2) on each street abutting the property, and on corner lots, shall not be located within thirty feet (30') of the intersection of the street right-of-way lines.
- J. All required state or federal licenses or permits for storage and dispensing of petroleum products and other activities shall be secured by the applicant and provided to the Zoning Officer. Drainage from storage areas shall not be directed off-site without adequate treatment to insure that oils, fuels, or other potentially contaminated liquids do not migrate to adjacent properties, water bodies or watercourses.

710A BAKERY AND CONFECTIONARY PRODUCTS RETAIL SALES (Permitted Use: C-1, C-2, C-2A, IAC, CM-2)

- A. A majority of the goods produced shall be sold in retail sales located on the site.
- B. If a majority of the goods are sold off-site, the use shall be considered Heavy Industry, allowable as a Permitted Use in the M-1, M-2 and CM-2 zone districts.

711 BANQUET FACILITY (Permitted Use: IAC, CM-2)

- A. Outdoor parties, celebrations, or special events held on the grounds of private residences by the residents of said property, where no fees are charged or collected, or are held for charitable, educational, or political fundraising, shall not be considered a banquet facility and shall not be subject to banquet facility requirements.

712 BED AND BREAKFAST INN (Special Exception: R-2)

- A. The bed and breakfast use shall be clearly incidental and secondary to the principal use of the building as an owner-occupied primary dwelling.
- B. In addition to the parking requirements in Article X of this Ordinance for the principal use, off-street parking shall be provided on the subject property for a number of parking spaces equal to the number of rooms designated for rental use within the bed and breakfast.

- C. One (1) sign shall be allowed in conformance with applicable sign regulations set forth in Article IX.
- D. All refuse receptacles shall be completely screened from view.
- E. Guests shall be permitted occupancy for not more than fourteen (14) consecutive nights.
- F. Food service shall be limited to breakfast served only to guests lodging at the inn.
- G. Rooms used for overnight accommodations shall be part of the primary residential structure and shall not have been specifically constructed for rental purposes.
- H. No exterior alterations shall be made to any building for the purpose of providing a bed and breakfast inn. This provision does not include those necessary alterations needed to ensure the safety of the structure or its occupants, including the installation of fire escapes or other fire safety devices, and all other requirements of the Uniform Construction Code.

712A BICYCLE RENTALS OR SALES (Permitted Use: C-1, C-2, C-2A, CM-2)

- A. No bicycle on display outdoors shall occupy any part of an existing street right-of-way or the area designated as customer parking.
- B. Outdoor display areas shall meet minimum required setbacks as set forth in Schedule II of this Ordinance for the applicable zone district in which the property is located.
- C. The use shall comply with lighting and glare requirements as set forth in §814 of this Ordinance.

713 BILLBOARD AND OFF-SITE ADVERTISING (Special Exception: C-2A, M-1, M-2, CM-2)

- A. Only one (1) billboard or off-site advertising sign may be erected, constructed, or maintained on any premises. Double-sided billboards or off-site advertising signs shall be treated as a single sign.
- B. A billboard or off-site advertising sign shall not exceed six hundred seventy-two (672) square feet in surface area on each side.
- C. A billboard or off-site advertising sign shall not be closer than one thousand feet (1,000') to another billboard or off-site advertising sign along the same side of the street or highway.
- D. A billboard or off-site advertising sign shall not be located within fifty feet (50') of any street or highway intersection.
- E. A non-illuminated billboard or off-site advertising sign shall not be located closer than two hundred feet (200') from any R-district boundary. An illuminated billboard or off-site advertising sign shall not be located closer than five hundred feet (500') from any Residential Use as listed in Schedule I and defined by Article III of this Ordinance or any R-district boundary. No billboard or off-site advertising sign shall be permitted that faces any abutting school, library, church, hospital, or similar institutional use. No billboard or off-site advertising sign shall be permitted along, or to face, the Robert P. Casey Memorial Highway (SR 6 and US Route 6) as it has been designated by the Pennsylvania State Legislature as a State Scenic Byway.
- F. The billboard or off-site advertising sign shall not be nearer to any property line than the height of the sign, but in no case, less than twenty-five feet (25').

- G. Any application for a billboard or off-site advertising sign shall be accompanied by certification, under seal by a Professional Engineer, that the existence of the billboard or off-site advertising sign, as proposed, shall not present a safety hazard.

714 BULK FUEL STORAGE (Special Exception: M-1, M-2, CM-2)

- A. All bulk fuel storage facilities, including tank trucks, must be secured from vandalism with appropriate fencing at least eight feet (8') in height.
- B. All state and federal regulations concerning storage safety must be met and copies of all licenses and certificates required for storage of these materials must be provided to the Borough Zoning Officer prior to issuance of a Certificate of Occupancy.
- C. The Borough Fire Chief shall be notified of all permit applications for bulk fuel storage facilities and shall be given an opportunity to make comments or a recommendation prior to the issuance of the permit(s).

715 CAMPGROUND (Special Exception: S, CM-1, CM-2)

- A. A minimum lot area of ten (10) acres shall be required for a campground.
- B. No campsite shall be occupied for more than thirty (30) consecutive days, and no campsite shall be the primary or principal residence of the owner or occupant.
- C. The management of every campground shall be responsible for maintaining accurate records concerning the occupancy of all campsites. The Borough shall have access to, and the right to inspect, records for evidence of permanent residency or lack thereof.
- D. Each campsite shall have a minimum area of two thousand (2,000) square feet exclusive of street travelways and pedestrian walkways.
- E. No campgrounds shall be located within the Flood Plain Overlay District.
- F. Landscaping and Natural Vegetation Protection set forth in §808 shall be met.
- G. Campgrounds shall have direct access to an existing public road.
- H. Campgrounds shall be designed to insure that all surface water is drained in a safe and efficient manner away from campsites. Campgrounds shall also conform to standards as set forth in the Olyphant Borough Storm Water Management Ordinance.
- I. No individual campsite shall be located within fifty feet (50') of any exterior property line or public road right-of-way. The land between the campsites and the exterior property lines shall have sufficient existing or planted trees and/or shrubbery to screen the campground to a height of six feet (6') from abutting properties.
- J. Campgrounds shall be served by a centralized or community sewage disposal system and central or community on-lot water supply. No individual campsite on-site sewage or water supply systems shall be permitted. Sewage dumping stations shall be provided and shall be designed in accordance with PA DEP regulations. All campsites must be within two hundred fifty hundred feet (250') of a bathhouse/toilet facility, which shall comply with PA DEP regulations.
- K. The storage, collection, and disposal of refuse in the campground shall be so managed as to create no health hazards or air pollution. All refuse shall be stored in fly-tight, watertight, rodent-proof, bear proof containers, which shall not be located within seventy-five (75') of

any campsite. Containers shall be provided in sufficient number and capacity to properly store all refuse as required by PA DEP. Rubbish shall be collected and disposed of at a facility approved by PA DEP as frequently as necessary to insure that the containers do not overflow.

- L. At least ten percent (10%) of the parcel shall be suitable for and improved to provide for open space and active recreation for users of the campground. Such active recreation may include, but is not limited to: swimming pools, playgrounds, play fields, ball fields, miniature golf courses, community buildings, and similar facilities.

716 CEMETERY AND MAUSOLEUM (Special Exception: R-1, R-2, S, CM-2)

- A. All structures, graves, and places of permanent burial shall meet the minimum setback requirements set forth in Schedule II of this Ordinance for the applicable zone district in which the cemetery or mausoleum is located.
- B. A minimum six foot (6') high fence, evergreen, or evergreen-type hedges or shrubs, at intervals of not more than six feet (6'), shall be provided and maintained. A planting strip, a minimum of twenty feet (20') in width shall be provided and maintained along any property line that abuts a residential property or residential street.
- C. No gravesites shall be located within the Flood Plain Overlay District.
- D. Roadways within a cemetery shall be a minimum of sixteen feet (16') and surfaced with gravel or asphalt. Ingress and egress shall be provided in a manner that minimizes traffic congestion.
- E. The owner/applicant shall submit evidence to the Borough that proves to the satisfaction of the Zoning Officer, Zoning Hearing Board, and/or Borough Solicitor that there will be an appropriate financial system to ensure perpetual maintenance of the land.

717 COMMERCIAL INDOOR RECREATION (Permitted Use: C-2, C-2A, IAC, M-1, M-2, CM-1, CM-2)

- A. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be five feet (5').

718 COMMERCIAL OR PRIVATE STABLE (Permitted Use: S)

- A. A minimum parcel of one (1) acre shall be required.
- B. No more than four (4) horses shall be kept; however, for each additional full acre over the minimum required, one additional horse shall be allowed. (i.e. On a 2-acre parcel, five (5) horses would be allowed.)
- C. All horses shall be restricted from grazing or intruding on abutting properties by a secured fence not less than four-feet-six inches (4'6") high from ground level.
- D. Any stable building used to house the horses shall be a minimum of two hundred (200) square feet per horse.
- E. Any stable building, corral, or other indoor/outdoor area used for feeding of animals, concentrated confinement of animals, or manure storage shall not be located closer than
 - a. fifty feet (50') from abutting property lines and/or road rights-of-way

- b. seventy-five feet (75') from any dwelling on the site and one hundred feet (100') from any dwelling on adjacent properties.
- F. Run-in buildings, or shelters from bad weather, shall be a minimum of twenty-five (25') feet from all property lines.
- G. The use shall not create any nuisance due to odor, noise, dust, or other factor on any abutting property and shall be subject to §809 of this Ordinance, Regulation of Nuisance Elements.
- H. Off-street parking for commercial stables shall be provided in accordance with Article X of this Ordinance.

719 COMMUNICATIONS FACILITIES, WIRELESS (WCF)
ON EXISTING STRUCTURES (Permitted Use: All Zone Districts)
TOWER-BASED 40' OR LESS IN HEIGHT (Special Exception: All Non-Residential Zones)
TOWER-BASED GREATER THAN 40' IN HEIGHT (Special Exception: S, IAC, M-1, M-2, CM-1, CM-2)

- A. DESIGN, CONSTRUCTION AND OPERATIONS
 - 1. All WCFs shall be sited, designed, constructed, operated, inspected, maintained, repaired, modified, removed and replaced in strict compliance with all current applicable federal and state technical and safety codes.
 - 2. Subdivision plan approval shall not be required when a WCF is located on a leased parcel that is less than the entire lot or property.
 - 3. All WCFs shall be operated in accordance with all applicable FCC rules regarding interference with public safety communications or the reception of broadband, television, radio or other communications services.
 - 4. All Tower-Based WCFs where the Tower is more than 40 feet in height, located outside of the Right-of-Way, shall be designed to accommodate both the applicant's Antennas and comparable Antennas for future users. As a condition of approval for all Tower-Based WCFs where the Tower is more than 40' in height, the applicant shall agree to allow other service providers to collocate Antennas on the Tower where technically and economically feasible.
 - 5. All WCFs shall include a posted sign at the location. Such signage shall include the ownership, contact name and phone number in the event of an emergency and Federal Communications Commission (FCC) registration number (if applicable). Such signage shall not include commercial advertising and is subject to approval by the municipality.
 - 6. Towers shall not be artificially lighted beyond what is required by law.
 - 7. All WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards established by the municipality. The use of a backup generator in emergency situations and periodic maintenance and testing by the wireless communications provider's technicians shall be permitted, where such noise standards may be exceeded on a temporary basis.

8. Vehicular Access.

- a) An access driveway and one off-street parking space shall be provided to ensure adequate emergency and service access to all Tower-Based WCFs located outside of the Right-of-Way.
- b) Maximum use of existing roads, whether public or private, shall be made to the extent practicable.
- c) Where possible, access driveway construction shall at all times minimize ground disturbance and the cutting of vegetation.
- d) Access driveway grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion.
- e) An applicant shall present documentation to Olyphant Borough that the property owner has granted an access easement for the proposed WCF, if located on a lot or property.
- f) Any required access easement shall be a minimum of twenty feet (20') in width and the access driveway shall be improved with a dust-free, all weather surface, including gravel, to a width of at least ten feet (10') throughout its entire length.
- g) Vehicular access to all WCFs shall not interfere with the parking or vehicular circulations for a principal use, if located on the lot or property. However, where appropriate and available, existing parking for the principal or other uses on the lot or property may be utilized.

9. A security fence, which may include barbed wire, with a minimum height of eight feet (8') may be required to surround any Tower-Based WCF located outside the Right-of-Way, where the Tower is more than forty feet (40') in height, including guy wires, associated equipment, and buildings. The requirement for a security fence may be waived by Olyphant Borough when the fence would not be appropriate or feasible.

10. Safety in Rights-of-Way.

- a) Olyphant Borough shall determine the time, place and manner of siting, design, construction, maintenance, repair, modification, removal and/or replacement of all WCFs located in the Right-of-Way based on public safety, traffic management, physical burden on the Right-of-Way and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of Olyphant Borough and the requirements of the Public Utility Code.
- b) Within 60 days following written notice from Olyphant Borough, or such longer period as the municipality determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a WCF located in the Right-of-Way shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when Olyphant Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under any one of the following circumstances:

- i) The construction, repair, maintenance or installation of any municipal or other public improvement located in the Right-of-Way.
 - ii) The operations of Olyphant Borough or other governmental entity in the Right-of-Way.
 - iii) Vacation of a street or road or the release of a utility easement.
 - iv) An emergency as determined by Olyphant Borough.
 - v) No permit is required for such removal, relocation, change or alteration ordered by Olyphant Borough.
- c) All WCFs and Accessory Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the Right-of-Way as determined by Olyphant Borough. In no case shall ground-mounted equipment, walls, screening or landscaping be located within eighteen inches (18') of the face of the curb, or in an area in which there are no curbs, within three feet (3') of the edge of the cartway.
11. An applicant for a WCF shall describe anticipated maintenance needs, including frequency of service, personnel needs and equipment needs, and the traffic, safety and noise impacts of such maintenance.
12. An applicant for a Tower-Based WCF where the new Tower is more than forty feet (40') in height, shall submit a soil report complying with the standards of geotechnical investigations, ANSI/EIA-222-G, as amended, shall be submitted to Olyphant Borough Engineer prior to construction to document and verify the design specifications of the foundation for the Wireless Support Structure and anchors for the guy wires, if used.
13. All WCFs shall comply with federal and state laws and regulations concerning aviation safety.
14. Inspections for all WCFs where the new Tower is more than 40 feet in height. A copy of any required inspection report shall be provided to Olyphant Borough following the inspection. Any repairs advised by report shall be completed by the WCF owner within sixty (60) calendar days after the report is filed with Olyphant Borough.
15. The storage of unused equipment or supplies is prohibited on any WCF site.

B. BULK AND AREA REQUIREMENTS – TOWER-BASED WCFs

		WCF out of ROW	WCF in ROW
HEIGHT		Tower-Based WCFs shall be designed to a minimum function height. Applicants must submit documentation justifying the total height.	Tower-Based WCFs shall be designed to a minimum function height, not to exceed 40' in C-1, C-2 and C-2A zone districts and 60' in the S, IAC, M-1, M-2, and CM zone districts.
LOT SIZE	Only use on lot or property:	Subject to underlying zone district.	Not applicable.
	Combined with another use on lot or property:	Area needed to accommodate the WCF and guy wires, accessory equipment, and if required, security fence, landscaping, and screening.	
SETBACKS	Towers:	Setback from property lines, not lease lines, at least 110% of the combined height of the Wireless Support Structure and Antennas.	Not applicable.
	Equipment buildings & cabinets:	Subject to Minimum Yard Setbacks as required by Schedule II for the underlying zone district.	

C. AESTHETICS, LANDSCAPING, AND SCREENING

1. All WCFs shall employ the most current Stealth Technology available, where appropriate, in an effort to appropriately blend the proposed WCF into the surrounding environment and minimize aesthetic impact. Equipment buildings and cabinets shall be designed to blend into the environment in which they are situated, to the extent practicable.
2. An applicant for Tower-Based WCF where the new Tower is more than forty feet (40') in height, located outside of the Right-of-Way, shall submit a landscaping and screening design including the following:
 - a) The applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the WCF support structure shall be preserved to the extent practicable.
 - b) Ground mounted equipment may be screened from public view using an evergreen screen, artificial screen, or fencing, as directed by Olyphant Borough.

D. REPLACEMENT, COLLOCATION, OR MODIFICATION

1. Notwithstanding the requirements for all Tower-Based WCFs and WCFs on existing structures, as set forth in this sub-section, an application for replacement, collocation or modification of a previously approved Wireless Support Structure or WCF shall be reviewed for conformance with Olyphant Borough building permit requirements, including requirements applicable to the added structural loading of the proposed antennas and accessory equipment. These previously approved facilities shall not be subject to the issuance of new zoning or land use approvals, provided that there is no substantial change.
2. Replacement of WCFs on existing Wireless Support Structures or within existing equipment compounds may be performed by the applicant without obtaining building or zoning permits from Olyphant Borough.

3. Any substantial change to an existing Tower-Based WCF shall require approval of Olyphant Borough in accordance with the terms of this Section.
4. An applicant proposing a WCF to be mounted on a building or any other structure shall submit detailed construction and elevation drawings indicating how the WCF will be mounted on the existing structure for review by the Olyphant Borough building code official for compliance with the building code.

E. PERMIT REQUIREMENTS

1. An application for a new Tower-Based WCF where the new Tower is more than forty feet (40') in height and located outside of the Right-of-Way, shall not be approved unless the applicant demonstrates that the wireless communications equipment planned for the proposed Tower-Based WCF cannot be collocated on an existing structure or building within a one-half (1/2) mile radius of the proposed Tower-Based WCF location to achieve the coverage or capacity objectives of the applicant.
2. An applicant for a Tower-Based WCF where the new Tower that is more than forty feet (40') in height, located outside of the Right-of-Way, must demonstrate that a significant gap in wireless coverage exists or lack of an adequate capacity is likely to exist within one (1) year of the filing of its application with respect to the applicant in the area.
3. An applicant for a WCF shall submit a copy of the lease or other form of written authorization with the property owner confirming that the applicant has standing to file the application and maintain the proposed WCF on the subject lot or property.
4. If the applicant is a commercial wireless communications provider, it must demonstrate that it is licensed by the Federal Communications Commission (FCC) and submit with its application copies of all FCC permits and licenses.
5. The applicant shall demonstrate that the proposed WCF will comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic emissions.
6. The applicant shall provide a certificate of insurance issued to the owner/operators of the WCF, evidencing that there is or will be adequate current liability insurance in effect.
7. Review Timeframes.

		Municipality shall notify the applicant in writing of any information that may be required to complete application.	Municipality shall approve or deny the application unless a shorter time period is applicable under the PA MPC.
A	New Tower-Based WCFs	Within 30 calendar days of the date the application was filed with the Municipality.	Within 150 days* of submission of a complete application for a WCF.
B	WCF on Existing Structures	Within 30 calendar days of the date the application was filed with the Municipality.	Within 90 days* of submission of a complete application for a WCF.
C	Eligible Facilities Requests** (as defined)	Within 30 calendar days of the date the application was filed with the Municipality.	Within 60 days* of submission of a complete application for a WCF.

*The time period may be tolled by mutual agreement or in cases where the Municipality informs the applicant in a timely manner that the application is incomplete.

If an application is considered incomplete, the time period begins running again as soon as the applicant makes a supplemental submission, but may be tolled again if the Municipality provides written notice to the applicant within 10 days that the application remains incomplete and specifically delineates which of the deficiencies specified in the original notice of incompleteness have not been addressed.

**The Municipality shall only require the applicant to provide documentation that is reasonably related to determining whether the request is for an Eligible Facility.

8. Olyphant Borough may assess appropriate and reasonable permit fees directly related to the actual costs in reviewing and processing the application for approval of a WCF. The amount of this fee may not be in excess of the actual reasonable cost to review and process the application.

F. DISCONTINUATION, ABANDONMENT, AND REMOVAL

In the event that use of a Tower-Based WCF is planned to be discontinued, the owner/operator shall provide written notice to Olyphant Borough of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:

1. All unused or abandoned WCFs and accessory facilities shall be removed within six (6) months of the cessation of operations at the Site unless a time extension is approved by Olyphant Borough.
2. If the WCF and/or accessory facility is not removed within six (6) months of the cessation of operations at a Site, or within any longer period approved by the municipality, the WCF and accessory facilities and equipment may be removed by the municipality and the cost of removal assessed against the owner of the WCF.
3. Any unused portions of WCFs, including antennas, shall be removed within six (6) months of the time of cessation of operations.

720 HOME SHARE (Special Exception Accessory Use: R-1, R-2, S, C-1, C-2, CM-1, CM-2)

- A. A home share shall only be offered in a space intended for human habitation, such as a principal residential dwelling or guest house. A host shall not rent space in an accessory structure such as a shed, garage, or barn, nor in an assisted-care apartment unit intended for occupancy by an infirmed, aged, or ill relative.
- B. At least one (1) of the dwelling's primary residents must live on-site, in the dwelling, and throughout the visitor's stay.
- C. There shall be no exterior advertising or signage for the home sharing.
- D. Only one (1) room shall be rented as a home sharing. Renting of two (2) or more rooms shall constitute a hotel/motel as defined by this Ordinance.
- E. Meals shall not be offered as part of the home sharing compensation. If meals are offered, the use shall constitute either a bed and breakfast inn or hotel/motel, whichever is applicable.
- F. Off-street parking must be provided in accordance with Article X of this Ordinance to accommodate all vehicles of the host residents and home sharing guests.

721 CONTRACTOR'S OFFICE AND YARD (Permitted Use: M-1, M-2, CM-1, CM-2)

- A. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any R-district or any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be five feet (5').

722 CONVENIENCE STORE WITH GAS PUMPS (Permitted Use: C-2, C-2A, IAC, CM-2)

- A. All requirements set forth for auto service stations in §710 D., G., H., I., and J. of this Ordinance shall apply to convenience stores with gas pumps.

723 CONVERSION FROM NON-RESIDENTIAL USE TO RESIDENTIAL UNITS (Permitted Use: R-1, R-2, S)

- A. Any conversion of a non-residential building to a residential use shall comply with the requirements applicable to the dwelling type to which conversion is proposed.
- B. All conversions to residential uses shall be permitted only in the zoning districts where a new building of similar occupancy would be permitted by the Ordinance, and must comply with all applicable requirements set forth by this Ordinance and the Uniform Construction Code for new buildings of similar occupancy.

723A CONVERSION FROM SINGLE-FAMILY TO DUPLEX/TWO-UNIT (Permitted Use: R-2)

- A. All conversions of single-family dwellings to duplex or two-unit dwellings must meet all applicable Lot, Yard, Coverage, and Height Regulations as established by Schedule II of this Ordinance for duplexes or two-unit dwellings in the R-2 zone district.

724 CORRECTIONAL FACILITY (Conditional Use: CM-2)

- A. No correctional facility shall be located in the Flood Plain Overlay District
- B. A minimum setback of one hundred feet (100') shall be required for all yards.
- C. The applicant shall prove to the satisfaction of the Borough Council that the proposed use will include sufficient security measures to protect the general public.
- D. A correctional facility shall not be located closer than five hundred feet (500') from any of the following uses:
1. Places of religious worship
 2. Public and semi-public buildings
 3. Child day-care centers
 4. Parks
 5. Any R-district or residential property

724A COUNTRY CLUB, GOLF COURSE AND DRIVING RANGE (Special Exception: S, CM-1, CM-2)

- A. All applicable requirements of Section 745A §A, B, C, and D. shall be met.

725 CREMATORIUM AND COLUMBARIUM (Permitted Use: M-1, M-2, CM-2)

- A. Crematoriums shall not be located within fifty feet (50') of any R-district or residential property.

- B. Crematoriums and columbariums shall meet the minimum setback requirements set forth in Schedule II of this Ordinance for the applicable zoning district in which it is located, except as provided for in §725 A. above.
- C. No columbarium shall be located within the Flood Plain Overlay District.
- D. Crematoriums shall comply with all applicable state and/or federal regulations.
- E. The owner/applicant shall submit evidence to the Borough that proves to the satisfaction of the Zoning Officer and the Borough Solicitor that there will be an appropriate financial system to ensure perpetual maintenance of a columbarium.

726 DRUG TREATMENT AND OTHER TREATMENT CENTER (Special Exception: CM-2)

- A. The applicant shall provide a written description of the types of patients and/or services the use is intended to treat or provide over the life of the special exception permit. Any future additions or modifications to the description shall require approval of the Zoning Hearing Board as a separate special exception application.
- B. The applicant shall prove to the satisfaction of the Zoning Hearing Board, with the burden of proof being on the applicant, that the use will involve adequate supervision and security measures to protect public safety.
- C. The Zoning Hearing Board may place conditions on the use necessary to protect public safety, including conditions on security measures.

727 FARM STAND (Permitted Accessory Use: S, C-2A)

- A. A farm stand, as defined under Section 302, shall be permitted as an accessory use to an agricultural operation and products processing facility or within the C-2A zone district on commercial or vacant property.
- B. The farm stand shall be setback a minimum of thirty feet (30') from a road right-of-way and ten feet (10') from all side and rear property lines.
- C. An area for off-street parking shall be provided to accommodate a minimum of five (5) vehicles.

728 FENCES, GATES AND WALLS (Permitted Accessory Use: All Zone Districts)

- A. Fences, gates and walls may be erected up to lot lines. No fence, gate or wall shall be erected within any road right-of-way. A boundary survey completed by a Pennsylvania-licensed Professional Land Surveyor may be required for fences, gates, and walls proposed at or near property lines if the location of the property line is disputed by an adjacent property owner or aggrieved party.
- B. Solid fences, gates and walls in side- and rear-yard areas, measured from ground level along the full length of the fence, shall not exceed six feet (6') in height except as otherwise required for Specific Uses set forth in this Article VII. Solid fences, gates and walls erected in front yards, measured from ground level along the full length of the fence, shall not exceed four feet (4') in height except as otherwise required for Specific Uses set forth in this Article VII. The front yard of a property shall be the area between the front property line and the actual setback of the principal structure nearest to the front property line, not the minimum required front-yard setback as designated in Article VI of this Ordinance.